



Gc  
978.1  
K13c  
v.5,pt.1  
1939988

REYNOLDS HISTORICAL  
GENERAL COLLECTION

ALLEN COUNTY PUBLIC LIBRARY



3 1833 01064 7086

11







Collections 490

# TRANSACTIONS

OF THE

# KANSAS STATE HISTORICAL SOCIETY.

1889-'96;

TOGETHER WITH

ADDRESSES AT ANNUAL MEETINGS; COPIES OF OFFICIAL  
PAPERS AND EXECUTIVE MINUTES

DURING THE ADMINISTRATIONS OF GOVERNORS ROBERT J. WALKER, JAMES W.  
DENVER, AND SAMUEL MEDARY, AND OF ACTING GOVERNORS DANIEL  
WOODSON, FRED. P. STANTON, JAMES W. DENVER, HUGH  
S. WALSH, AND GEORGE M. BEEBE, 1857-'60;

AND INCLUDING SOME PAPERS OF DATES 1855 AND 1856.

EDITED BY F. G. ADAMS, SECRETARY.

V. 5, pt. 1

VOL. V.

*LC*  
978.1  
K13c  
V. 5

TOPEKA:  
PRESS OF THE KANSAS STATE PRINTING COMPANY.

J. K. HUDSON, STATE PRINTER.

1896.

1000



**OFFICERS.**

**1939988**

**OFFICERS FOR THE YEAR 1891.\***

JAMES S. EMERY, Lawrence..... President.  
THOMAS A. OSBORN, Topeka..... Vice-President.  
SAMUEL N. WOOD, Woodsdale..... Vice-President.  
FRANKLIN G. ADAMS, Topeka..... Secretary.  
T. DWIGHT THACHER, Topeka..... Treasurer.

**OFFICERS FOR THE YEAR 1892.**

THOMAS A. OSBORN, Topeka..... President.  
BENJAMIN F. SIMPSON, Topeka..... Vice-President.  
ALBERT R. GREENE, Lecompton..... Vice-President.  
FRANKLIN G. ADAMS, Topeka..... Secretary.  
T. DWIGHT THACHER, Topeka..... Treasurer.

**OFFICERS FOR THE YEAR 1893.**

PERCIVAL G. LOWE, Leavenworth..... President.  
LEVI DUMBAULD, Hartford..... Vice-President.  
VINCENT J. LANE, Kansas City..... Vice-President.  
FRANKLIN G. ADAMS, Topeka..... Secretary.  
T. DWIGHT THACHER, Topeka..... Treasurer.

**OFFICERS FOR THE YEAR 1894.**

VINCENT J. LANE, Kansas City..... President.  
W. L. BROWN, Kingman..... Vice-President.  
JAMES B. ABBOTT, De Soto..... Vice-President.  
FRANKLIN G. ADAMS, Topeka..... Secretary.  
T. DWIGHT THACHER, Topeka..... Treasurer.

**OFFICERS FOR THE YEAR 1895.**

SOLON O. THACHER, Lawrence..... President.  
JAMES B. ABBOTT, De Soto..... Vice-President.  
HARRISON KELLEY, Burlington..... Vice-President.  
FRANKLIN G. ADAMS, Topeka..... Secretary.  
JOHN GUTHRIE, Topeka..... Treasurer.

**OFFICERS FOR THE YEAR 1896.**

EDMUND N. MORRILL, Hiawatha..... President.  
JAMES B. ABBOTT, De Soto..... Vice-President.  
HARRISON KELLEY, Burlington..... Vice-President.  
FRANKLIN G. ADAMS, Topeka..... Secretary.  
JOHN GUTHRIE, Topeka..... Treasurer.

\*In volume IV of these collections the insertion of the name of Hon. Edward Russell, of Lawrence, as President of the Society, was omitted. Mr. Russell served for the year 1888, by election at the annual meeting January 17 of that year, to fill the vacancy arising from the resignation of Hon. D. W. Wilder, who had been elected for the term of two years. Action was taken at this time which changed the term of the office to one year.

Gov. E. N. Morrill was elected the 2d day of October, 1895, by the executive committee of the Society to fill the unexpired term arising from the death of President Solon O. Thacher, and at the annual meeting on the 21st day of January following he was elected President for the ensuing year.

00000000

## BOARD OF DIRECTORS.

FOR THE YEAR ENDING JANUARY 19, 1897.

Anthony, D. R.....	Leavenworth.	McIntire, T.....	Arkansas City.
Baker, F. P.....	Topeka.	Meredith, Fletcher.....	Hutchinson.
Caldwell, J. C.....	Topeka.	Montgomery, F. C.....	Topeka.
Capper, Arthur.....	Topeka.	Osborn, R. S.....	Stockton.
Carruth, W. H.....	Lawrence.	Paine, A. B.....	Fort Scott.
Coburn, F. D.....	Kansas City.	Riddle, A. P.....	Minneapolis.
Davis, J. W.....	Greensburg.	Robinson, Mrs. Sara T. L.....	Lawrence.
Green, C. R.....	Lyndon.	Russell, Edward.....	Lawrence.
Greene, A. R.....	Lecompton.	Snow, E. H.....	Ottawa.
Herbert, Ewing.....	Hiawatha.	Speer, John.....	Garden City.
Hodgdon, D. P.....	Lyons.	Waggener, B. P.....	Atchison.
Junkin, J. E.....	Sterling.	Walters, J. D.....	Manhattan.
Kelley, Harrison.....	Burlington.	Ware, E. F.....	Topeka.
Kingman, Miss Lucy D.....	Topeka.	Weightman, M.....	Topeka.
Legate, Jas. F.....	Leavenworth.	Wilder, D. W.....	Hiawatha.
Little, E. C.....	Ablene.	Wood, Mrs. M. L.....	Strong City.
MacLennan, F. P.....	Topeka.		

FOR THE TWO YEARS ENDING JANUARY 18, 1898.

Adams, F. G.....	Topeka.	Lowe, P. G.....	Leavenworth.
Butterfield, J. Ware.....	Topeka.	Maloy, John.....	Council Grove.
Caldwell, Alex.....	Leavenworth.	Martin, George W.....	Kansas City.
Clark, J. R.....	La Cygne.	Morrill, E. N.....	Hiawatha.
Dallas, E. J.....	Topeka.	Price, John M.....	Atchison.
Elliott, L. R.....	Manhattan.	Reynolds, Adrian.....	Sedan.
Emery, J. S.....	Lawrence.	Simpson, B. F.....	Paola.
Gleed, Chas. S.....	Topeka.	Sims, William.....	Topeka.
Guthrie, John.....	Topeka.	Smith, W. H.....	Marysville.
Hackbusch, H. C. F.....	Leavenworth.	Spicknall, W. R.....	Wellington.
Haskell, John G.....	Lawrence.	Stanley, Edmund.....	Lawrence.
Hays, R. R.....	Osborne.	Sutton, William B.....	Russell.
Heizer, D. N.....	Great Bend.	True, A. E.....	Vera.
Holliday, C. K.....	Topeka.	Wellhouse, Fred.....	Topeka.
Hopkins, Scott.....	Horton.	Williams, Archie L.....	Topeka.
Horton, A. H.....	Topeka.	Wright, John K.....	Junction City.
Lane, V. J.....	Kansas City.		

FOR THE THREE YEARS ENDING JANUARY 17, 1899.

Abbott, James B.....	De Soto.	Mulvane, John R.....	Topeka.
Arnold, A. J.....	North Topeka.	Murdoch, M. M.....	Wichita.
Brown, W. L.....	Kingman.	Otis, Mrs. Bina A.....	Topeka.
Cowgill, E. B.....	Topeka.	Prentiss, Noble L.....	Kansas City.
Edwards, W. C.....	Larned.	Remington, J. B.....	Osawatomie.
Felt, Andrew J.....	Atchison.	Rice, Harvey D.....	Topeka.
Forney, A. G.....	Belle Plaine.	Robison, J. W.....	El Dorado.
Harris, W. A.....	Linwood.	Scott, Charles F.....	Iola.
Hoch, E. W.....	Marion.	Semple, Robert H.....	Ottawa.
Houk, L.....	Hutchinson.	Stewart, A. A.....	Olathe.
Hudson, J. K.....	Topeka.	Taylor, Edwin.....	Edwardsville.
Hunt, McCown.....	Leavenworth.	Troutman, James A.....	Topeka.
Johns, Mrs. Laura M.....	Salina.	Warner, Alexander.....	Raxter Springs.
Lewelling, L. D.....	Wichita.	Whiting, A. B.....	Topeka.
McLallin, Dr. S.....	Topeka.	Whittemore, L. D.....	Topeka.
Maxson, P. B.....	Emporia.	Woodward, B. W.....	Lawrence.
Miller, Sol.....	Troy.		



LIFE MEMBERS.

Anthony, Colonel Daniel Read, Leavenworth, Kansas.  
 Halderman, Colonel John Acoming, Metropolitan Club, Washington, D. C.

Holliday, Colonel Cyrus Kurtz, Topeka, Kansas.  
 Thacher,\* Judge Solon Otis, Lawrence, Kansas.

HONORARY MEMBERS.

Abbott, Mrs. Elizabeth Watrous, DeSoto, Kansas.  
 Adams, Hon. Charles Francis, jr., Boston, Mass.  
 Armstrong,\* Mrs. Lucy B., Wyandotte, Kansas.  
 Arthur,\* President Chester Alan, New York City.  
 Beecher,\* Rev. Henry Ward, Brooklyn, N. Y.  
 Bickerdyke, Mother Mary Ann, Russell, Kansas.  
 Brown,\* Capt. John, jr., Put-in-Bay-Island, Ohio.  
 Buckner, Governor Simon Bolivar, Frankfort, Ky.  
 Card, General Benjamin C., Washington, D. C.  
 Carr, General Eugene A., Washington, D. C.  
 Chevalier,\* M. H. E., Paris, France.  
 Coates,\* Colonel Kersey, Kansas City, Mo.  
 Cooke,\* General Phillip St. George, Detroit, Mich.  
 Deering,\* Benjamin T., Paris, France.  
 Defouri, Very Rev. James H., Santa Fe, N. M.  
 Denison, Rev. Joseph, D. D., Oakland, Kansas.  
 Denver,\* Governor James W., Wilmington, Ohio.  
 Drum, General Richard Coulter, Washington, D. C.  
 Evarts, Hon. William Maxwell, Ph. D., Washington, D. C.  
 Forsyth, Colonel George A., Wilkes-Barre, Pa.  
 Forsyth, General James W., Washington, D. C.  
 Fremont,\* General John Charles, Washington, D. C.  
 Fuller, Mrs. Mary Ream, Interior Department, Washington, D. C.  
 Gilmore, John Storrier, Esq., Fredonia, Kansas.  
 Grow, Hon. Galusha Aaron, Glenwood, Pa.  
 Hale, Rev. Edward Everett, S. T. D., Boston, Mass.  
 Harvey,\* Governor James Madison, Vinton, Kansas.  
 Hawley, Senator Joseph R., Hartford, Conn.

Hawn, Prof. Frederick, Leavenworth, Kansas.  
 Higginson, Colonel Thomas Wentworth, Cambridge, Mass.  
 Hinton, Colonel Richard J., New York.  
 Holmes,\* Dr. Oliver Wendell, Boston, Mass.  
 Howe, Mrs. Julia Ward, Boston, Mass.  
 Hyatt, Thaddeus, Sheppard's Hotel, Brooklyn, N. Y.  
 Ingalls, Hon. John James, Atchison, Kansas.  
 Julian, Hon. George Washington, Irvington, Ind.  
 Kingman, Judge Samuel Austin, Topeka, Kansas.  
 Lawrence,\* Hon. Amos Adams, Boston, Mass.  
 Lippincott, Rev. J. A., D. D., Philadelphia, Pa.  
 McCook, General Alexander McDowell, Washington, D. C.  
 Medill, Joseph, Chicago, Ill.  
 Merritt, General Wesley, Washington, D. C.  
 Palne, Robert Treat, Boston, Mass.  
 Peck, Colonel George R., Chicago, Ill.  
 Pecker, Colonel J. E., Concord, N. H.  
 Philleo,\* Mrs. Prudence Crandall, Elk Falls, Kansas.  
 Pierce,\* Edward L., Milton, Mass.  
 Platt, Rev. George Lewis, Tivoli, N. Y.  
 Ricord, Frederick William, LL. D., Newark, N. J.  
 Robinson, Mrs. Sara Tappan Doolittle, Lawrence, Kansas.  
 Rucker, General Daniel Henry, Washington, D. C.  
 Sewall, Rev. Dr. J. A., Denver, Colo.  
 Sheridan,\* General Phillip Henry, Washington, D. C.  
 Sherman,\* General William Tecumseh, New York City.  
 Speare, Hon. Alden, Boston, Mass.  
 Stearns, Mrs. Mary E., Medford, Mass.  
 Stowe, Mrs. Harriet Beecher, Hartford, Conn.  
 Taylor, Mrs. Rachel Broadhead, Wyandotte, Kansas.  
 Thayer, Hon. Eli, Worcester, Mass.  
 Townsend, Colonel Edwin F., Washington, D. C.  
 Van Vliet, General Stewart, Washington, D. C.

\*Deceased.



Wheaton, General Frank, San Antonio, Tex.  
 White, Horace, journalist, New York City.  
 Whittier,\* John Greenleaf, Amesbury, Mass.  
 Wilder, Hon. Daniel Webster, Hiawatha, Kansas.  
 Willard, Mrs. Francis Elizabeth, Chicago, Ill.

Williams,\* J. M. S., Boston, Mass.  
 Williams, Colonel Robert, Chicago, Ill.  
 Winslow, William Copley, D.D., LL.D., Boston, Mass.  
 Winthrop, Hon. Robert C., Boston, Mass.  
 Woodson,\* Governor Daniel, Independence, Kansas.  
 Wood, Mrs. Margaret Lyon, Strong City, Kansas.  
 Woodward, W. Elliott, Boston, Mass.

## CORRESPONDING MEMBERS.

Anderson,\* Rev. James Watson D., Hot Springs, Arkansas.  
 Anthony, Miss Susan Brownell, Rochester, N. Y.  
 Austin, J. O., Providence, R. I.  
 Badger, Prof. Henry C., Harvard University, Cambridge, Mass.  
 Bellows, Rev. Russell N., New York City.  
 Bernstein, Samuel, Cincinnati, Ohio.  
 Bishop, Rev. William, D. D., Salina, Kansas.  
 Bradley, Rev. Caleb David, D. D., Boston, Mass.  
 Brady, John T., Houston, Tex.  
 Broadhead, Luke W., Delaware Water Gap, Pa.  
 Brown, George Washington, M. D., Rockford, Ill.  
 Brown, Orville C., Adams, New York.  
 Cavanaugh, Hon. Thomas H., Olympia, Washington.  
 Clarke,\* Sylvester H., Clyde, N. Y.  
 Darling, General C. W., A. M., Utica, N. Y.  
 Denver,\* Governor James W., Washington, D. C.  
 Dewey, Thomas Emmett, Abilene, Kansas.  
 Dillard, W. W., Fort Scott, Kansas.  
 Doggett, Samuel Bradlee, Esq., Boston, Mass.  
 Drowne, Henry T., New York City.  
 Dunbar, Prof. John B., Bloomfield, N. J.  
 Egle, Hon. W. H., Harrisburg, Pa.  
 Ewing,\* General Thomas, New York City.  
 Foster, Charles A., Quincy, Mass.  
 Fox, George W., Esq., Boston, Mass.  
 Garrison, Francis J., Roxbury, Mass.  
 Greene, Samuel Abbott, M. D., Boston, Mass.  
 Harden, Hon. William, Savannah, Ga.  
 Hayden, Rev. Horace Edwin, Wilkes-Barre, Pa.  
 Hurd, Samuel Hutchins, M. D., New York City.  
 Hutchinson, William, Washington, D. C.  
 Ingersoll, Hon. Robert Green, Washington, D. C.  
 Jackson, Samuel P., Worcester, Mass.

Keith, Mrs. Eliza Meeker, Oakland, Cal.  
 Kelton, Colonel Dwight H., Quincy, Mich.  
 Knox, Rev. Martin Van Buren, Littleton, N. H.  
 Latour, Major L. A., Huguet, Montreal, Canada.  
 Linn, John Blair, D. D., Bellefonte, Pa.  
 Lorentz, Edward A., West Point, N. Y.  
 Lowrey, Grosvenor P., New York City.  
 Macdonald, Rev. Dr. P. M., Boston, Mass.  
 Manchester, Rev. Alfred, Salem, Mass.  
 Mobley,\* Richard D., Grand Junction, Colo.  
 Olmsted, Fred Law, A. M., Brookline, Mass.  
 Owen,\* Colonel Richard, New Harmony, Ind.  
 Parvin, Hon. Thomas S., Cedar Rapids, Iowa.  
 Peet, Dr. Stephen Denison, Avon, Ill.  
 Pigott, Rev. William, D. D., 38 Hickman st., Gainsborough, Lincolnshire, Eng.  
 Pomeroy,\* Hon. Samuel Clarke, Washington, D. C.  
 Poole, Murray E., A. B., Ithaca, N. Y.  
 Redpath,\* James, New York City.  
 Reynolds,\* Rev. Grindall, Boston, Mass.  
 Rice, Franklin P., Worcester, Mass.  
 Riddpath, Prof. John Clark, Greencastle, Ind.  
 Robertson,\* Rev. Bishop Charles Franklin, D. D., St. Louis, Mo.  
 Roe, Alfred S., Worcester, Mass.  
 Sanborn, Franklin Benjamin, Concord, Mass.  
 Stanton, Mrs. Elizabeth Cady, Johnstown, N. Y.  
 Stanton,\* Governor Fred P., Farmwell, Va.  
 Starrett, Mrs. Harriet Elizabeth, Chicago, Ill.  
 Steerman, Hon. E. A., London, England.  
 Stevens,\* Robert S., Batavia, N. Y.  
 Swinton, John, New York City.  
 Tappan, Samuel F., Washington, D. C.  
 Thwing, Dr. Edward P., Brooklyn, N. Y.  
 Tracey, Rev. Harry Frank, D. D., Vicar of Dartmouth, South Devon, England.





## TABLE OF CONTENTS.

	PAGE.
Officers.....	3
Directors.....	4
Life members.....	5
Honorary members.....	5
Corresponding members.....	6
Proceedings of meetings.....	9
Biographical sketch of John G. Whittier.....	30
Facsimiles of poems by Whittier and Lucy Larcom.....	32, 38
Biographical sketch of Lucy Larcom.....	36
Address of Dr. Richard Cordley, January 17, 1882.....	42
Address of Col. Cyrus K. Holliday, January 20, 1891.....	48
Address of Hon. James S. Emery, January 19, 1892.....	61
Address of Dr. Peter McVicar, January 19, 1892.....	69
Address of W. H. T. Wakefield, January 17, 1893.....	71
Address of Mrs. Lois H. Walker, January 17, 1895.....	74
Address of C. H. Dickson, January 17, 1893.....	76
Address of Hon. J. R. Mead, January 17, 1893.....	88
Address of Hon. P. G. Lowe, January 16, 1894.....	93
Address of Hon. T. Dwight Thacher, January 16, 1894.....	100
Memorial proceedings on Col. William A. Phillips.....	101
Address of Dr. William Bishop, January 16, 1894.....	101
Address of Clifford C. Baker, January 16, 1894.....	106
Address of Prof. E. B. Cowgill, January 16, 1894.....	107
Address of Col. Daniel R. Anthony, January 16, 1894.....	108
Address of J. B. McAfee, January 16, 1894.....	109
Address of Hon. John Speer, January 16, 1894.....	110
Address of Hon. James F. Legate, January 16, 1894.....	112
Biographical sketch of Hon. Timothy Dwight Thacher.....	113
Address of Hon. Albert R. Greene, January 15, 1895.....	116
Address of Prof. Oscar E. Olin, January 15, 1895.....	127
Address of Hon. John Speer, January 15, 1895.....	131
Memoir of Prof. Isaac T. Goodnow, by Rev. Hugh D. Fisher, D. D.....	141
Funeral discourse on Judge Solon Otis Thacher, by Dr. Richard Cordley, at Lawrence, October 14, 1895.....	142
Address of Gov. Edmund N. Morrill, January 21, 1896.....	148
Biographical sketch of Robert P. Flenniken, by B. F. Flenniken.....	154
Documentary history of Kansas.....	156



Biographical sketch of Daniel Woodson.....	157
Biographical sketch of Robert J. Walker.....	158
Biographical sketch of Frederick P. Stanton.....	159
Biographical sketch of James W. Denver.....	160
Biographical sketch of Hugh S. Walsh.....	161
Biographical sketch of Samuel Medary.....	161
Biographical sketch of George M. Beebe.....	162
Governor Reeder's Administration.....	163
Governor Shannon's Administration.....	231
Governor Geary's Administration.....	261
Governor Walker's Administration.....	290
Governor Denver's Administration.....	461
Governor Medary's Administration.....	561
General Index.....	634
Chronological Index.....	680



TRANSACTIONS  
OF THE  
KANSAS STATE HISTORICAL SOCIETY.

---

MEETINGS, 1891-'96.

THE FIFTEENTH ANNUAL MEETING.

The fifteenth annual meeting of the Society was held in the hall of the House of Representatives, Tuesday evening, January 20, 1891; Hon. C. K. Holliday, President, in the chair.

President Holliday delivered his annual address, on the subject, "The Fremont Campaign, 1856."

At the close of the President's address, Hon. Edward Russell read a paper on the subject of "The Administration of Gov. Thomas Carney."

Hon. James F. Legate then made a few remarks on the same subject.

The following were elected members of the Board of Directors for the term of three years, ending January 16, 1894: J. W. D. Anderson, D. R. Anthony, L. D. Bailey, F. P. Baker, Ed. A. Berry, A. Z. Brown, M. W. Cobun, W. Doty, P. P. Elder, C. V. Eskridge, Geo. W. Glick, I. T. Goodnow, A. R. Greene, L. U. Humphrey, J. N. Ives, S. A. Kingman, James F. Legate, William H. McBride, T. McIntire, Thomas A. Osborn, William A. Phillips, A. P. Riddle, Chas. Robinson, Edward Russell, John Speer, Samuel J. Stewart, E. F. Ware, W. C. Webb, M. Weightman, S. C. Wheeler, A. N. Whittington, D. W. Wilder, S. N. Wood.

MEETING OF THE BOARD OF DIRECTORS.

At a meeting of the Board of Directors held on the adjournment of the annual meeting, January 20, 1891, the following officers and members of the Society were elected:

President, James S. Emery; Vice-Presidents, Thomas A. Osborn and Samuel N. Wood; Treasurer, T. Dwight Thacher; Secretary, Franklin G. Adams. Honorary members: John Brown, jr., Put-in-Bay Island, Ohio, and George W. Julian, Irvington, Indiana. Active member, W. E. Richey, Harveyville.



Legislative Committee: T. D. Thacher, S. N. Wood, B. F. Simpson, A. R. Greene, Geo. D. Hale.

Executive Committee: C. K. Holliday, L. U. Humphrey, J. N. Ives, F. P. Baker, D. W. Wilder.

#### SPECIAL MEETINGS.

An informal meeting of the Board of Directors was held October 12, 1891, at which were present Hon. J. S. Emery, Col. C. K. Holliday, Hon. F. P. Baker, Hon. J. G. Haskell, and F. G. Adams. On motion of Colonel Holliday, it was voted that the Board of Directors request the Executive Council to procure, through the Board of Public Works, information as to what rooms may be provided in the completed Capitol building for the use of the State Historical Society.

At a meeting of the Board of Directors held in the rooms of the Society January 19, 1892, a resolution was adopted recognizing the Kansas Legislative Association of 1868, of which Hon. John M. Price is president, and Hon. John T. Morton is secretary, as an auxiliary of the State Historical Society.

#### SIXTEENTH ANNUAL MEETING.

The sixteenth annual meeting was held in the hall of the House of Representatives, Tuesday evening, January 19, 1892; the President, Hon. James S. Emery, in the chair.

The President read his annual address, entitled "History and Historical Composition."

Rev. Dr. Peter McVicar read a paper on the subject, "Some Reminiscences concerning School Lands on the Osage Reservations in Kansas."

The following persons were elected members of the Board of Directors for the term of three years, ending January 15, 1895: F. G. Adams, Topeka; Alex. Caldwell, Leavenworth; Ed. Carroll, Leavenworth; E. J. Dallas, Topeka; L. R. Elliott, Manhattan; Jas. S. Emery, Lawrence; Chas. S. Gleed, Topeka; John Guthrie, Topeka; R. R. Hays, Osborne; C. K. Holliday, Topeka; Scott Hopkins, Horton; Albert H. Horton, Topeka; James Humphrey, Junction City; J. B. Johnson, Topeka; V. J. Lane, Wyandotte; P. G. Lowe, Leavenworth; John Maloy, Council Grove; Geo. W. Martin, Kansas City; John Martin, Topeka; J. R. Mead, Wichita; Joel Moody, Mound City; E. N. Morrill, Hiawatha; Geo. R. Peck, Topeka; John M. Price, Atchison; Adrian Reynolds, Sedan; B. F. Simpson, Topeka; William Sims, Topeka; W. H. Smith, Marysville; Jacob Stotler, Wellington; C. A. Swensson, McPherson; T. D. Thacher, Topeka; Fred Wellhouse, Leavenworth; John K. Wright, Junction City.





To fill vacancies caused by the death of Col. Samuel N. Wood, for the term ending January 16, 1894, Mrs. Margaret L. Wood; and in the place of Hon. W. C. Webb, declined, J. S. Collins, of Topeka, for the term ending January 16, 1894; and in the place of Hon. L. D. Bailey, deceased, T. W. Eckert, of Arkansas City, for the term ending January 16, 1894; and in the place of Prof. James H. Canfield, removed from the State, Chancellor Frank H. Snow, of Lawrence, for the term ending January 17, 1893.

#### MEETING OF THE BOARD OF DIRECTORS.

On adjournment of the annual meeting, January 19, 1892, the Board of Directors convened, and elected the following officers and members of the Society:

President, Thomas A. Osborn; Vice-Presidents, Benjamin F. Simpson and Albert R. Greene. Corresponding members: Dr. Stephen D. Peet, Avon, Ill.; Hon. Wm. Harden, Savannah, Ga.; Prof. Henry Badger, Howard University, Washington, D. C.; Hon. E. A. Steedman, London, Eng.; Richard D. Mobley, Grand Junction, Colo.; Hon. Thomas S. Parvin, Cedar Rapids, Iowa.

#### SPECIAL MEETING.

At a meeting in the rooms of the Society August 31, 1892, the following committees were appointed:

To present to the Executive Council an application that the Board of Public Works be directed by the Council to examine the plans of the Capitol building and contemplated assignments for the officers of the various departments of the State, with a view of determining what portion of the building can best be prepared for the use of the State Historical Society, the following committee; James F. Legate, Wm. Sims, Dr. S. McLallin, and F. G. Adams.

To present to the Kansas Board of Managers of the World's Columbian Exposition an application for room in the Kansas building, for the use of the Society for a historical exhibit, the following committee: T. D. Thacher, F. P. Baker, and F. G. Adams.

#### MEETING OF THE BOARD OF DIRECTORS.

The Board of Directors met in the rooms of the Society at 3 p. m., Tuesday, the 15th of November, 1892, to consider the eighth biennial report of the Society. The following members were present:

Maj. B. F. Simpson and Col. C. K. Holliday, Topeka; Hon. S. C. Wheeler, Concordia; Judge J. S. Emery, Lawrence; Maj. J. K. Hudson and Chas. S. Gleed, Topeka; L. R. Elliott, Manhattan; Maj. J. B. Abbott, De Soto; Judge S. A. Kingman, Judge John Guthrie, and Hon. Wm. Sims, Topeka; Hon. Fred Wellhouse, Leavenworth; Hon.



John M. Price, Atchison; Hon. F. P. Baker, Topeka; Hon. Martin Mohler, Osborne; Hon. P. G. Lowe, Leavenworth; Geo. D. Hale, Esq., E. J. Dallas, and F. G. Adams, Secretary, Topeka.

Vice-President Benjamin F. Simpson presided.

The Secretary read the report of the Board of Directors, which, on motion of Mr. Baker, was approved for publication.

The President appointed the following committee to audit the accounts of the Secretary and Treasurer: C. K. Holliday, E. J. Dallas, and P. G. Lowe.

The chair reported the following resolutions, which were adopted:

*Resolved*, That grateful thanks are hereby extended by the State Historical Society to the Hon. Charles Francis Adams, of Quincy, Mass., for his generous thoughtfulness, as trustee of the Thomas Crane Public Library, of Quincy, in giving to our Society more than 500 volumes of books, chiefly of documents relating to the political history of the country.

*Resolved*, That special thanks are also given our former citizen, Hon. Charles A. Foster, (of Osawatomie,) now of Quincy, Mass., for his thoughtful action in relation to this gift.

*Resolved*, That the Secretary be directed to give copies of these resolutions to the persons named therein.

The following resolution, proposed by Major Simpson, was offered by Mr. Gleed, and unanimously adopted:

*Resolved*, That section 5 of the constitution of the Society be so amended as to read as follows:

5. The annual meeting of the Society shall be held at Topeka on the 29th day of January, or on the following Monday; and those members, not less than 10, who meet at any annual or special meeting of the Society, upon the call of the Board of Directors, shall be a quorum for the transaction of business.

On motion of Mr. Gleed, the following resolution was adopted:

*Resolved*, That Capt. Henry King, of the St. Louis Globe-Democrat; Hon. J. R. Mead, of Wichita; and Hon. Jacob Stotler, of Wellington, be requested to deliver addresses at our next annual meeting, January 17, 1893.

On motion of Mr. Baker, the chair appointed the following committee on nominations: F. P. Baker, P. G. Lowe, S. C. Wheeler, A. N. Whittington, B. F. Simpson.

Judge Kingman stated that, in behalf of Judge Guthrie, Judge Emery, and himself, who had been designated by the chair for that duty, he would offer the following resolution:

*Resolved*, That the directors and officers of the State Historical Society have heard with the most profound sorrow of the death of Mrs. Julia D. Osborn, the lovely and accomplished wife of our Presi-



dent, and we extend to him and family our sympathy and condolence in this, their great bereavement.

On motion of Mr. Baker, the resolution was adopted.

Colonel Holliday, from the Executive Committee, made the annual financial report, which was adopted.

Mr. Baker, from the committee appointed to confer with the Kansas Board of World's Fair Managers, reported that the application of the Society for room for the Kansas historical exhibit had been granted.

On motion of Judge Guthrie, a committee was appointed to take into consideration the subject of the kind of display which should be made by the Society, and to report upon the same at the annual meeting in January next, as follows: J. S. Emery, J. B. Abbott, Chas. S. Gleed, F. G. Adams, and E. J. Dallas.

On motion of Mr. Lowe, Gen. Frank Wheaton, U. S.A., in charge of the department of Texas, at San Antonio, was elected an honorary member of the Society.

Secretary Adams offered the following resolution, which, on motion of Judge Guthrie, was adopted:

*Resolved* That Monday, the 30th day of January next, be observed by the Society as "Kansas Day," and that D. W. Wilder, Eugene F. Ware, Charles F. Scott, J. C. Hebbard, Mrs. J. K. Hudson, A. R. Greene, and Noble L. Prentis, with such other persons as they may choose to add to their number, form a committee to make arrangements for a proper observance of the day, and that the exercises be of a character calculated to invite a reunion of Kansas authors and writers, especially of the authors of books and pamphlets which have been contributed to the library of this Society, and that the exercises also have particular reference to John G. Whittier, as in a large sense the poet of Kansas.

The finances of the Society for the year ending November 17, 1891, are as follows:

RECEIPTS.

Nov. 18, 1890. Balance of appropriations to June 30, 1891.....	\$4,177 50
Nov. 18, 1890. Balance in hands of the Treasurer of the Society.....	19 00
July 1, 1891. Appropriation to June 30, 1892.....	5,500 00
Receipts from membership fees.....	32 00
<b>Total .....</b>	<b>\$9,728 50</b>

EXPENDITURES.

Salaries and clerk hire.....	\$4,783 00
Purchase of books.....	556 59
Postage, freight, and contingent .....	554 5,893 94
<b>Balance .....</b>	<b>\$3,831 56</b>



The finances for the year ending November 15, 1892, are as follows:

## RECEIPTS.

Nov. 17, 1891. Balance of appropriations to June 30, 1892.....	\$3,783 56	
Nov. 17, 1891. Balance in hands of Treasurer of Society.....	51 00	
July 1, 1892. Appropriation to June 30, 1893.....	5,500 00	
Receipts from membership fees.....	52 00	
Total .....		\$9,386 56

## EXPENDITURES.

Salaries and clerk hire.....	\$4,555 58	
Purchase of books.....	664 27	
Postage, freight, and contingent.....	592 40	5,812 25
Balance .....		\$3,574 31

## MEETINGS, 1893-'94.

## MEETING OF THE BOARD OF DIRECTORS, JANUARY 17, 1893.

The meeting of the Board of Directors, preparatory to the seventeenth annual meeting of the Society, was held in the Society's rooms, January 17, 1893, at 3 p. m.

The following members were present: Hon. Jas. S. Emery, Hon. A. R. Greene, Hon. F. P. Baker, Hon. S. C. Wheeler, Col. D. R. Anthony, Hon. William Sims, Hon. T. D. Thacher, M. Weightman, Hon. Geo. W. Martin, Hon. S. A. Kingman, Hon. V. J. Lane, Hon. P. G. Lowe, Mrs. S. N. Wood, Col. C. K. Holliday, George D. Hale, Dr. P. McVicar, Hon. W. H. McBride, Hon. John Guthrie, and Secretary F. G. Adams.

A. R. Greene, Vice-President, presided, in the absence of Gov. Thomas A. Osborn, the President.

The Secretary stated the business of the meeting to be the consideration of the reports of committees.

Judge Emery, for the committee previously appointed on the World's Columbian Exposition, made a verbal report, stating that the committee recommend that an exhibit be made from the collections of the Society, consisting of the portraits of prominent Kansans, of pictures illustrating the history of the state, a full collection of books by Kansas authors, as complete a collection as possible of newspapers published in one or two of the older and newer counties, and of mound-builder, Indian and other relics peculiar to Kansas history. Judge Emery mentioned that various private collections had been offered the Society by Kansas citizens for display in connection with the Historical Society's exhibit.

On motion of Mr. Baker, the committee was continued, with full power to act in all matters pertaining to the Society's exhibit, including the presentation of a bill asking the legislature for an appropriation to defray the actual expenses of such exhibit, with the





understanding that no salary should be paid from such appropriation.

The Secretary then read the report of the Committee on Nominations.

The committee appointed to make arrangements for a Whittier celebration reported that, owing to lack of time, they had done nothing in the matter, and, at their request, the committee was discharged.

A resolution was adopted requesting the incoming officers and Executive Committee to appoint a Committee on Legislation.

The Secretary presented the subject of needed additional room for the Society. On motion of Colonel Anthony, a resolution was adopted requesting the Legislative Committee to act with the President and Secretary to frame a bill for presentation to the legislature making provision for room sufficient for the present and future needs of the Society.

On motion of Judge Kingman, the President appointed the following committee of three to draft resolutions on the services and death of Col. Samuel N. Wood, viz.: Col. D. R. Anthony, Hon. J. C. Hebbard, and Hon. George W. Martin.

#### ANNUAL MEETING OF THE SOCIETY—JANUARY 17, 1893.

The seventeenth annual meeting of the Society was held in the senate chamber, the evening of January 17, 1893; Vice-Pres. Albert R. Greene in the chair.

The Secretary read an abstract of the eighth, biennial report of the Society.

Hon. W. H. T. Wakefield, of Lawrence, read a paper on "Squatter Courts in Kansas."

Colonel Holliday then gave a brief history of the origin and of the events of the "Wakarusa War."

A paper written by Mrs. Lois H. Walker (formerly Mrs. George W. Brown) was then read, relating to the bringing into Lawrence, by herself and Mrs. S. N. Wood, of ammunition from the house of Maj. J. B. Abbott, for the use of the free-state men during the Wakarusa war, and Mrs. Wood made a brief verbal statement of her memories of the event.

The portrait of Col. S. N. Wood was then presented to the Society by his widow, Mrs. Margaret L. Wood, in the following words:

Mr. President: One whom the people of Kansas will never forget; one who was a true friend of Kansas, and consequently a true friend of the State Historical Society, and an earnest worker for the objects for which it was instituted; one who was a friend to his fellow-men, and whose heart held a wealth of tenderness and compassion for all



who suffer from wrong, oppression and poverty; one to whom the hand of want never reached out in vain; he may have had faults; I have forgotten what they were. They called him a fighter, and a foe to be dreaded; but whether friend or foe, in the face of want and suffering, his heart was as tender as the heart of a child. That you may keep his features in mind; that you may not in this life forget him, and may know him when you meet him on the blest immortal shore of a better land, I present you this portrait of Samuel N. Wood.

Secretary Adams accepted the portrait in behalf of the Society.

Colonel Anthony read the following resolutions, which were unanimously adopted by the Society:

Whereas, By the hand of a cowardly assassin, the Hon. Samuel N. Wood has been taken from us; and

Whereas, Colonel Wood was an earnest and most useful member of this Society; a man who himself helped to make Kansas history; a leader and a tower of strength in the early struggles against slavery; a strong, earnest, aggressive laborer in the cause of right, as he saw the right; a bitter, unrelenting foe to every wrong that presented itself to him as wrong: therefore,

*Resolved*, That it is with deep sorrow that we have heard of the untimely and tragic death of Colonel Wood; and

*Resolved*, That it is our opinion that there is a radical defect in laws that are impotent to punish his assassin; and

*Resolved*, That we extend to his bereaved widow, who stood by him for so many years, and was in truth his helpmate in every good work, our heartfelt sympathy, and hereby express the sincere hope that she may continue long to supplement his faithful work, to which she herself so largely contributed; and

*Resolved*, That these resolutions be spread upon the minutes of this Society, and a copy of them be furnished to Mrs. Margaret L. Wood, the widow.

The Kansas poems of John G. Whittier were then read by Hon. T. D. Thacher. Mr. Thacher prefaced the reading by appropriate remarks relating to the character of Whittier and his great sympathy with the people of Kansas in their efforts to plant the institutions of freedom upon the soil of the new territory. The poems read were the following: "The Kansas Emigrant's Song," "Le Marais du Cygne," "The Burial of Barber," and verses relating to John Brown.

The President offered the following resolution, which was adopted, relating to the subject of private exhibits offered the Society for use at the Chicago exhibition:

*Resolved*, That the World's Fair committee be authorized and instructed to accept from private donors contributions to the Kansas historical collection in the Kansas building at the World's Fair exhibition, such objects of historical interest as the owners may present for that purpose, the committee to use its discretion as to accepting or rejecting such offers.



The following members of the Board of Directors were then elected, for the term of three years, ending January 21, 1896: Jas. B. Abbott, Lucien Baker, W. L. Brown, J. B. Chapman, E. B. Cowgill, Chas. S. Davis, Mrs. Anna L. Diggs, Levi Dumbauld, A. G. Forney, Warren Foster, H. N. Gaines, J. M. Hagaman, J. C. Hebbard, E. W. Hoch, J. K. Hudson, McCown Hunt, Mrs. Laura M. Johns, L. D. Lewelling, J. T. Little, Dr. S. McLallin, Dr. Peter McVicar, P. B. Maxson, Sol. Miller, M. M. Murdock, N. L. Prentis, J. B. Remington, William Rogers, Chas. F. Scott, Robert H. Semple, A. A. Stewart, S. O. Thacher, W. H. T. Wakefield, A. B. Whiting, and C. A. Woodworth; the latter to fill vacancy caused by the removal of Rev. J. W. D. Anderson from the State.

MEETING OF THE BOARD OF DIRECTORS, JANUARY 17, 1893.

On the adjournment of the annual meeting, a meeting of the Board of Directors was held, and the following officers of the Society were elected: President, P. G. Lowe; Vice-Presidents, Levi Dumbauld and V. J. Lane; Treasurer, T. D. Thacher; Secretary, F. G. Adams.

Mrs. S. N. Wood then introduced Mr. C. H. Dickson as the "boy" who assisted Mrs. Brown and herself in securing the ammunition for the Wakarusa war. Mr. Dickson gave an interesting account of his recollections of the affair.

President Lowe appointed the following committees:

Executive Committee.—C. K. Holliday, L. D. Lewelling, F. P. Baker, William Sims, and S. McLallin.

Legislative Committee.—J. C. Hebbard, John Guthrie, Jas. B. Abbott, Jas. F. Legate, and A. B. Whiting.

Nominating Committee.—F. P. Baker, Albert R. Greene, E. B. Cowgill, B. F. Simpson, and T. D. Thacher.

The persons whose names were presented at the meeting of the Board of Directors in the afternoon for nomination as members of the Society were unanimously elected, as follows:

Honorary Members.—Rev. James H. Defouri, Santa Fé, N. M.; Hon. Chas. Francis Adams, jr., Boston, Mass.; Rev. Dr. J. A. Lippincott, Philadelphia, Pa.; Gen. Eugene A. Carr, Washington, D. C.

Corresponding Members.—Orville C. Brown, Adams, N. Y.; Sylvester H. Clarke, Clyde, N. Y.; Rev. J. W. D. Anderson, Hot Springs, S. D.; Hon. Samuel F. Tappan, Washington, D. C.; Hon. William Hutchinson, Washington, D. C.; Alfred S. Roe, Esq., Worcester, Mass.; Samuel Bernstein, Cincinnati, Ohio; Mrs. W. T. Keith (Eliza Mecker), Oakland, Cal.; Franklin P. Rice, Esq., Worcester, Mass.

Active Member.—Arthur Clark, Esq., Wichita.



## ANNUAL MEETING, BOARD OF DIRECTORS—JANUARY 16, 1894.

The eighteenth annual meeting of the Board convened in the east rooms of the Society, Tuesday, January 16, 1894, at 2 p. m.; President Lowe in the chair.

The following members of the Board were present: Col. Percival G. Lowe, Col. Cyrus K. Holliday, Judge Samuel A. Kingman, Gov. Chas. Robinson, Hon. W. L. Brown, Hon. John Speer, Prof. E. B. Cowgill, Dr. Stephen McLallin, Hon. John Guthrie, Warren Foster, Esq., Hon. Floyd P. Baker, Dr. Peter McVicar, Hon. McCown Hunt, Col. D. R. Anthony, Hon. J. C. Hebbard, and Secretary F. G. Adams.

The Secretary read the report of the World's Fair committee, as follows, which was adopted:

The committee appointed by the Board of Directors to take charge of the Society's exhibit at the World's Columbian Exposition have to report, that on the application of the committee, the Kansas Board of Managers, which was appointed under the act of the legislature making an appropriation for the general Kansas exhibit, granted to the Society the sum of \$500 for use in making a historical exhibit in the Kansas building. From the library and collections of the Society a selection was made of Kansas books and pictures, and these were shipped to Chicago and placed in the rooms assigned for the Society's use. It is believed that the historical exhibit so made contributed no inconsiderable share to the interest which attached to the Kansas exhibits. Herewith is given a detailed statement (see daybook No. 2, p. 82) of the expenditures in placing, caring for, and returning the exhibit to the rooms of the Society, from which it will be seen that less than the entire sum of \$500 was expended, the balance remaining in the hands of the Board of Managers, being the sum of \$51.02.

Respectfully submitted.

C. K. HOLLIDAY.

F. G. ADAMS.

J. S. EMERY.

Mr. Brown moved that, as Mr. Thacher, Major Simpson, and Mr. Greene, members of the Nominating Committee, were not present, their places be supplied by three members to be appointed by the chair. The motion was adopted, and Messrs. Robinson, Anthony and McVicar were appointed.

On motion of Colonel Holliday, the report of the Committee on Nominations was approved, for submission to the annual meeting.

The Secretary then read the annual report for the year ending November, 1893, for the consideration and action of the Board, and for submission to the annual meeting. On motion of Judge Kingman, the report was approved.

Nominations of corresponding and honorary members were then made, for the action of the evening meeting of the Board of Direc-





tors, including the following resolution, offered by Governor Robinson:

*Resolved*, That the chancellors and presidents of all chartered Kansas universities and colleges should, by virtue of their office, be considered as corresponding members of the Historical Society, and that certificates to that effect should be issued to such officers by the Secretary.

Judge Kingman then offered the following resolution, which was adopted:

*Resolved*, That the members of the State Historical Society have learned with profound regret of the sudden and dangerous illness of our late esteemed President, T. Dwight Thacher, and extend to him our best wishes for his speedy relief, and to his family the warmest sympathy in their anxiety and trouble.

The Secretary was directed to forward the resolution immediately to Mrs. Thacher.

ANNUAL MEETING OF THE SOCIETY—JANUARY 16, 1894.

The eighteenth annual meeting of the Society convened in the hall of the house of representatives at 7:30 p. m., Tuesday, the 16th of January, 1894, and was called to order by President Lowe.

The Secretary read the annual report of the Board of Directors, including the following:

FINANCIAL STATEMENT.

Nov. 15, 1892.—Balance of appropriation to June 30, 1893.....	\$3,467 89
Balance in hands of Treasurer, Society fees.....	103 00
<b>Total balance .....</b>	<b>\$3,570 89</b>
July 1, 1893.—Appropriation to June 30, 1894.....	5,680 00
Receipts from membership fees.....	30 00
<b>Total .....</b>	<b>\$9,280 89</b>

*Expenditures.*

Salaries and clerk hire.....	\$4,536 00
Purchase of books.....	429 70
Postage, freight, and contingent.....	617 28
Miscellaneous expenses, Treasurer's account.....	47 98
	<u>5,630 96</u>
<b>Total balance .....</b>	<b>\$3,649 93</b>

On motion, the report was adopted.

The Society then elected the following members of the Board of Directors, for the three years ending January 19, 1897: D. R. Anthony, F. P. Baker, John C. Caldwell, Arthur Capper, W. H. Carruth, F. D. Coburn, J. W. Davis, I. T. Goodnow, C. R. Green, A. R. Greene, Ewing Herbert, D. P. Hodgdon, J. E. Junkin, Samuel A. Kingman, James F. Legate, E. C. Little, Timothy McIntyre, F. P. MacLennan, F. C. Montgomery, Russell S. Osborn, A. B. Paine, A. P. Riddle, Edward Russell, Charles Robinson, E. H. Snow, John Speer, Eugene F.



Ware, M. Weightman, D. W. Wilder, B. P. Waggener, J. D. Walters, and Mrs. Margaret L. Wood.

On motion of Hon. John Guthrie, the names of T. E. Dewey, Esq., of Abilene, and Dr. William Bishop, of Salina, were added to the nominations for corresponding members.

Colonel Lowe, President of the Society, then read his annual address, relating to affairs in Kansas prior to the settlements.

The President announced that next in order was the memorial proceedings relative to the late Col. William A. Phillips, an eminent citizen of Kansas and a former President of the Society, lately deceased. Dr. William Bishop, of Salina, then delivered an able and exhaustive address, relating to the life, character and public services of Col. William Addison Phillips, who died at Fort Gibson, I. T., November 30, 1893. At the close of the address, on motion of John Guthrie, the thanks of the Society were extended to Dr. Bishop.

Clifford C. Baker, Esq., of Topeka, then read a fragment of a memorial address on Colonel Phillips, which had been prepared by Hon. T. Dwight Thacher. At the conclusion of Mr. Thacher's paper, Mr. Baker added some appropriate remarks on the subject.

Prof. E. B. Cowgill, of Topeka, read a brief paper relating to his early memories of Colonel Phillips's correspondence in the New York "Tribune."

On motion of Hon. John Guthrie, the President appointed Hon. John Guthrie, Hon. John Speer, and Col. D. R. Anthony to draft resolutions relating to the death of Col. William A. Phillips. The committee, after a brief conference, reported the following, which were adopted:

It having pleased Almighty God to remove from this life Hon. William Addison Phillips, a distinguished member, and who was one of the Presidents of this Society, and who for nearly 40 years was conspicuous in the history of the state and the nation by his achievements and services as a journalist, soldier, statesman, and author, a gentleman eminent alike for rich and varied learning, elegant scholarship, and refined taste, as well as for high attainment in all the gifts, graces and accomplishments of genuine manhood and unimpeachable character:

*Resolved*, That we cherish a profound veneration for the talents, virtues and services of our late associate, comrade and friend; that we tender to the family of the deceased the expression of our sincere sympathy on the occasion of their irreparable loss, and that the foregoing preamble and these resolutions be adopted and entered upon the records of the State Historical Society; and

*Resolved*, That a copy of these resolutions be presented to the family of the deceased and published in the papers of the city.

Brief remarks relative to the life and work of Colonel Phillips



were then made by Col. D. R. Anthony, Hon. John Speer, Rev. J. B. McAfee, and Hon. Jas. F. Legate.

On motion of Colonel Anthony, the Secretary was instructed to endeavor to procure a portrait of Colonel Phillips for the Historical Society.

MEETING OF THE BOARD OF DIRECTORS, JANUARY 16, 1894.

On the adjournment of the annual meeting of the Society, a meeting of the Board of Directors was called by President Lowe.

The Board proceeded to the election of the officers of the Society nominated at the afternoon meeting of the Board, as follows: President, Vincent J. Lane, Kansas City; Vice-Presidents, W. L. Brown, Kingman, and Jas. B. Abbott, De Soto.

President Lane then took the chair.

On motion, the honorary and corresponding members nominated at the afternoon and evening meetings were then elected, as follows:

Honorary.—Rev. William Copley Winslow, D.D, LL.D., Boston; Edwin F. Townsend, colonel twelfth infantry and commandant infantry and cavalry school, Leavenworth; Robert Treat Paine, Boston; Hon. Galusha A. Grow, of Pennsylvania.

Corresponding.—Samuel Bradlee Doggett, Boston, Mass.; Thomas Emmett Dewey, of Abilene; Dr. William Bishop, of Salina.

The resolution offered by Governor Robinson at the afternoon meeting of the Board, relating to corresponding membership of chancellors and presidents of Kansas universities and colleges, was then adopted.

MEETING OF THE BOARD OF DIRECTORS, MARCH 30, 1894.

At a called meeting of the Board of Directors, March 30, 1894, the following members were present: President, Hon. V. J. Lane, Col. D. R. Anthony, Hon. John Guthrie, Dr. Peter McVicar, D. P. Hodgdon, F. D. Coburn, Chas. S. Davis, L. R. Elliott, and Secretary Adams.

Hon. John Guthrie was elected Treasurer of the Society to fill the vacancy caused by the death of Hon. T. Dwight Thacher, the former Treasurer.

Hon. W. A. Harris, of Linwood, was elected a member of the Board of Directors to fill the vacancy caused by the death of J. C. Hebbard; Hon. Harrison Kelley, of Burlington, was elected to fill the vacancy caused by the declination of Robert Hay; Hon. D. N. Heizer, of Great Bend, was elected to fill the vacancy caused by the death of T. Dwight Thacher; and Fletcher Meredith was elected to fill the vacancy caused by the death of Prof. I. T. Goodnow.

A resolution was adopted expressive of the great loss of the Society by death, since the annual meeting, in January last, of Hon. T.



Dwight Thacher, Prof. I. T. Goodnow, and J. C. Hebbard, all of whom had long been members of the Board, and prominent in the work of the Society.

On motion of Doctor McVicar, President Lane, Colonel Anthony and John Guthrie were appointed a committee to make preparations for suitable memorial proceedings in relation to these deceased members at the next annual meeting of the Society.

MEETING OF THE BOARD OF DIRECTORS, NOVEMBER 20, 1894.

At a meeting of the Board of Directors of the Society, held November 20, 1894, to consider the ninth biennial report of the Board of Directors, preparatory to its publication, and for the transaction of other business, the following members were present: Vincent J. Lane, Kansas City; A. R. Greene, Lecompton; J. E. Junkin, Sterling; R. R. Hays, Osborne; C. R. Green, Lyndon; James S. Emery, Lawrence; Albert B. Paine, Fort Scott; and Floyd P. Baker, John Guthrie, E. B. Cowgill, F. D. Coburn, Arthur Capper, Fred Wellhouse, Albert H. Horton, Samuel A. Kingman, and F. G. Adams, Topeka.

The meeting was called to order by the President, Hon. V. J. Lane.

The report, as prepared by the Secretary, was read and approved.

Mr. Baker, from the Executive Committee, reported that the committee had examined the accounts of the Society for the year ending October 31, 1894, and found them to be correct.

Mr. Cowgill moved that the Secretary be authorized and empowered to have a synopsis of the report printed in pamphlet, the expense to be paid from the private fund of the Society. The motion was adopted.

Mr. Baker moved that the Memorial Committee be authorized and directed to prepare, or cause to have prepared, suitable biographical sketches of the deceased members of the Board of Directors, such sketches to be submitted to the committee for their approval before being accepted, and when accepted the committee shall file the matter with the Secretary for printing in the collections of the Society, and that memorial exercises at the annual meeting be dispensed with. The motion was adopted.

On motion of the Secretary, Mr. Cowgill, Mr. Baker, Mr. Greene and Mr. Coburn were appointed to assist the Secretary in preparing a program for the coming annual meeting, January 15, 1895.





## MEETINGS, 1895.

MEETING OF THE BOARD OF DIRECTORS, JANUARY 15, 1895.

The nineteenth annual meeting of the Board of Directors was held in the west rooms of the Society, January 15, 1895.

In the absence of Pres. V. J. Lane, Vice-Pres. W. L. Brown presided. There were present Jas. B. Abbott, W. L. Brown, A. R. Greene, F. P. Baker, D. R. Anthony, L. R. Elliott, William Sims, J. S. Emery, P. McVicar, Adrian Reynolds, John Speer, F. D. Coburn, Eugene Ware, N. L. Prentis, E. J. Dallas, C. R. Green, J. C. Caldwell, Jas. F. Legate, Arthur Capper, J. E. Junkin, Mrs. Margaret L. Wood, John K. Wright, John Guthrie, C. K. Holliday, Fred. Wellhouse, and F. G. Adams.

On motion, the President appointed F. P. Baker, D. R. Anthony and Fred. Wellhouse a Committee on Nominations.

At the suggestion of the Secretary, the by-laws of the Society were revised, amended, and adopted by sections, and the Secretary authorized to number them in the proper manner, as follows:

## BY-LAWS.

I. There is hereby created an Executive Committee of the Board of Directors of the Society, to consist of five members, to be appointed subsequent to the annual meeting of the Society, and to hold their office until the next annual meeting.

II. The Executive Committee shall audit all accounts presented against the Society, and all warrants drawn on the Treasurer shall be upon sworn vouchers approved by a majority of the members of the Executive Committee.

III. The Executive Committee shall examine and audit the accounts and vouchers of the Treasurer annually before the time of the annual meeting, and at the annual meeting they shall make a written report to the Board of Directors.

IV. The Executive Committee shall determine the character of the published reports of the Society, and shall decide what papers from its transactions and collections the biennial report shall contain.

V. The Executive Committee shall take such action as the interests of the Society shall from time to time demand in relation to providing and furnishing suitable rooms for its collections, and shall consult with the Secretary, and with him decide upon the purchasing of books to augment the Society's library.

VI. There shall be a Committee on Program and Addresses, to consist of five members of the Board; and it shall be the duty of the committee to provide for the addresses and proceedings of annual and other meetings, and to take such action as may be deemed advisable in reference to the delivery from time to time of lectures and addresses on historical subjects at the state capital or elsewhere.



VII. There shall be a Committee on Legislation, to consist of three or more members of the Society; and it shall be the duty of the committee to confer with the members and committees of the legislature, and present for their consideration and action the matters of legislation which the Board of Directors shall recommend.

VIII. There shall be a Committee on Nominations, to consist of five members of the Board; and it shall be the duty of the committee, annually, at some time previous to the annual meeting of the Society, to make a selection of persons whom they deem proper to recommend for members of the Board of Directors, and shall present the same for the action of the Society at the annual meeting.

IX. All committees shall be appointed by the President.

The subject of permanent room for the Society in the completed capitol building was discussed at length, and, on motion of Colonel Holliday, the following resolution was adopted:

*Resolved*, That the State Historical Society adheres to the position formerly taken, that the legislature shall be asked to assign and have prepared for the use of the Society, through the state executive council, the first and second floors of the east wing of the capitol building, so soon as the same shall be vacated by the present occupants, on the completion of the main portion of the building.

The report of the Committee on Nominations was approved.

Honorary, corresponding and active members were then nominated, for election at the evening meeting of the Board.

Dr. William Bishop, of Salina, made some remarks regarding the library of the late Col. William A. Phillips, expressing the hope that it might be purchased by the state for the Historical Society. No action was taken by the Board of Directors.

The chair renewed the appointment of the present Committee on Memorials for the coming year.

ANNUAL MEETING OF THE SOCIETY—JANUARY 15, 1895.

The nineteenth annual meeting convened in the hall of the house of representatives, at 7:30 p. m., Tuesday, the 15th of January, 1895.

In the absence of the President, Hon. V. J. Lane, Vice-Pres. W. L. Brown presided, and made a brief address.

The Secretary read an abstract of the report of the Board of Directors, including the following financial statement:

The finances of the Society for the year ending November 20, 1894, are as follows:

Nov. 21, 1893.—Balance of appropriation to June 30, 1894.....	\$3,564 91
Balance in hands of Treasurer, Society fees.....	85 02
Total balance .....	\$3,649 93
July 1, 1894.—Appropriation to June 30, 1895.....	5,680 00
Receipts from membership fees.....	38 00
Total .....	\$9,367 93



<i>Expenditures.</i>		
Salaries and clerk hire.....		\$4,670 00
Purchase of books.....		622 30
Postage, freight, and contingent.....		425 18
		5,717 48
Total balance .....		\$3,650 45

The following members of the Board of Directors were then elected, for the term of three years, ending January 18, 1898: F. G. Adams, J. Ware Butterfield, Alex. Caldwell, J. R. Clark, E. J. Dallas, L. R. Elliot, J. S. Emery, Chas. S. Glead, John Guthrie, H. C. F. Hackbusch, John G. Haskell, R. R. Hays, D. N. Heizer, C. K. Holliday, Scott Hopkins, A. H. Horton, V. J. Lane, P. G. Lowe, John Malloy, George W. Martin, E. N. Morrill, John M. Price, Adrian Reynolds, B. F. Simpson, William Sims, W. H. Smith, W. R. Spicknall, Edmund Stanley, William B. Sutton, A. E. True, Fred Wellhouse, Archie L. Williams, and John K. Wright.

For the term of two years, ending January 19, 1897: Mrs. Sarah T. L. Robinson was elected in place of Gov. Charles Robinson, deceased.

[No memorial paper relating to the life and services of Governor Robinson has been prepared for the collections of the Society. At the annual meeting in January, 1897, it is expected that action will be taken for the preparation of a memorial address which shall bring into the Society's published collections a record just to the memory of Charles Robinson, the man who was not only the chosen leader of the people of Kansas at the time of greatest trial, but was one of the most useful among the founders of the state, and who was always one of the most prominent and useful members of this Society. Governor Robinson died at his home near Lawrence, August 17, 1894.]

For the term of one year, ending January 21, 1896: A. L. Sponsler was elected in place of Warren Foster, of Hutchinson, removed from the state.

The following program was then had: Address by Hon. A. R. Greene, "Chimney Corner Chat on the Battle of Wilson's Creek." Address by Prof. Oscar E. Olin, "Romance of Kansas History." Address by Hon. John Speer, "Incidents of the Pioneer Conflict." Music by the McNary quartette.

MEETING OF THE BOARD OF DIRECTORS, JANUARY 15, 1895.

At the close of the annual meeting the Board of Directors convened, and elected the following officers, nominated at the afternoon meeting: President, Solon O. Thacher; Vice-Presidents, Maj. Jas. B. Abbott and Harrison Kelley; Treasurer, John Guthrie; Secretary, F. G. Adams.



The following members of the Society, nominated at the afternoon meeting, were elected:

Honorary Members.—Mrs. Mary Ann Bickerdyke (Mother Bickerdyke), Russell, Kas.; Rev. George Lewis Platt, Episcopal minister, Tivoli, N. Y.; Hon. Alden Speare, Boston, Mass.; Senator Joseph R. Hawley, Hartford, Conn.

Corresponding Members.—Rev. William Piggott, D.D., Gainsborough, Eng.; Rev. Harry Frank Tracey, D.D., vicar of Dartmouth, South Devon, England.

Active Members.—J. H. Hunt, Topeka; Col. William Watson Houston, Garnett; Dr. H. D. Fisher, Westmoreland; Hon. Noah C. McFarland, Topeka; Prof. Oscar E. Olin, Manhattan.

LEGISLATIVE COMMITTEE'S MEETING—FEBRUARY 15, 1895.

At a meeting of the Legislative Committee, held in the catalogue room, at 2 o'clock p. m., February 5, 1895, there were present: Col. C. K. Holliday, F. P. Baker, E. J. Dallas, A. R. Greene, W. L. Brown, E. B. Cowgill, W. J. Costigan, and Arthur Capper.

The Secretary presented for the consideration of the committee a draft of a concurrent resolution, which, on motion, was approved, for presentation to the chairman of the committee on state affairs of the house of representatives.

The estimates for appropriations for each of the two ensuing fiscal years were also read and approved.

Other business of minor importance was transacted, when, on motion, the meeting adjourned.

MEETING OF THE EXECUTIVE COMMITTEE—OCTOBER 2, 1895.

At a called meeting of the Executive Committee of the Society, held in the west room, October 2, 1895, the following members were present:

Gov. E. N. Morrill, Major William Sims, Hon. F. P. Baker, Col. C. K. Holliday. Dr. S. McLallin was absent on account of sickness. Colonel Holliday presided.

The Secretary stated that the object of the call of the committee was to fill the vacancy in the office of President of the Society, caused by the death of Hon. Solon O. Thacher, which occurred on the 11th of August last.

Mr. Baker moved the appointment of Gov. E. N. Morrill to fill the vacancy, and stated the reason why he thought the appointment should be made. Major Sims seconded the motion with remarks of the same tenor. A vote being taken resulted in yeas, 3: Messrs. Baker, Sims, and Holliday. Nays 1, Governor Morrill.

The meeting then adjourned.





## TWENTIETH ANNUAL MEETING OF THE BOARD OF DIRECTORS.

The twentieth annual meeting of the Board of Directors of the State Historical Society met in the state capitol at 2 p. m., January 21, 1896, Gov. E. N. Morrill, President, in the chair. The following members were present: E. N. Morrill, Fred Wellhouse, D. R. Anthony, A. B. Whiting, F. G. Adams, A. E. True, J. S. Emery, S. A. Kingman, V. J. Lane, James B. Abbott, E. B. Cowgill, J. Ware Butterfield, Harrison Kelley, J. E. Junkin, John Guthrie, E. J. Dallas, F. D. Coburn, and L. R. Elliott.

The Secretary read the annual report of the Board of Directors, which on motion was adopted for presentation to the annual meeting of the Society.

On motion of Mr. Cowgill, a committee was appointed to confer with the trustees of the state library, for the object, if possible, of adjusting the conflict between the state library and the Historical Society, as follows: E. B. Cowgill, Topeka; Geo. W. Martin, Kansas City; A. J. Felt, Atchison; James S. Emery, Lawrence; F. D. Coburn, Kansas City. Mr. Coburn declined to act on the committee, and Hon. Sol. Miller, of Troy, was appointed in his place.

On motion of Judge Guthrie, the following committee of three was appointed by the President to prepare a suitable memorial of the life and character of Judge Solon O. Thacher for publication in the collections of this Society: Col. D. R. Anthony, Brinton W. Woodward, and N. L. Prentiss.

The committee on nominations made their report, which, on motion, was approved for presentation to the annual meeting of the Society and of the Board of Directors.

Governor Morrill then presented the report of the Committee on Finances, which was accepted.

Governor Morrill being called away, Major Abbott took the chair.

J. C. Price, of Republic, then presented the matter of the village site of the Pawnee Republic, and exhibited some relics picked up from the locality. The following resolutions, offered by the Secretary, were then adopted:

*Resolved*, That the Kansas State Historical Society recognizes as of great importance the investigations made by the Pawnee Republic Historical Society, of Republic and Jewell counties, in its efforts to establish the exact location of the village of the Pawnee Republic, which was visited and described by Capt. Zebulon M. Pike, in the year 1806, and thus to fix the point where American occupancy under the Louisiana territory purchase first encountered



Spanish occupancy, and the flag of the United states was made to supplant the flag of Spain.

*Resolved*, That the information already gathered by that society, supported as it is by the testimony of the distinguished investigator and antiquarian, Prof. Elliott Coues, leaves little if any question that that village site had its location near the Republican river, on portions of sections 2 and 3, township 2, range 5 west, in White Rock township, Republic county.

*Resolved*, That a committee of this Board be appointed to cooperate with the Pawnee Republic Historical Society in definitely determining that location, and in recommending such action as may be deemed advisable towards suitably marking the place by monument or otherwise.

The President appointed the following committee, in accordance with the foregoing resolution: F. G. Adams, E. B. Cowgill, and N. L. Prentis.

Judge Kingman proffered his resignation as member of the Board of Directors. On motion of Judge Guthrie, the resignation was accepted, and Judge Kingman was nominated as an honorary member.

On motion of Mr. Adams, Miss Lucy D. Kingman was nominated to fill the vacancy caused by the resignation of her father.

On motion, the meeting adjourned.

---

## TWENTIETH ANNUAL MEETING.

The twentieth annual meeting of the State Historical Society met in representative hall at 8 p. m., Tuesday, January 21, 1896, the President, Gov. E. N. Morrill, in the chair.

Dr. H. D. Fisher offered prayer.

Judge Samuel A. Kingman made the announcement that Gen. Thomas Ewing, an honorary member of our Historical Society, and a former distinguished citizen of Kansas, had just died in New York city, on this, the 21st day of January, 1896, as the result of injuries sustained by him through accident. Judge Kingman also read a letter of regret written by General Ewing to the Secretary of the Society in response to an invitation given him to attend the present annual meeting. On motion, Judge Samuel A. Kingman, A. H. Horton and John Guthrie were appointed to prepare a paper on the life and services of General Ewing.

The report of the Board of Directors was read, and, on motion of Judge Guthrie, was adopted.



Members of the Board of Directors were then elected for the term of three years, ending January 17, 1899, as follows:

James B. Abbott, De Soto; A. J. Arnold, North Topeka; W. L. Brown, Kingman; E. B. Cowgill, Topeka; W. C. Edwards, Larned; A. J. Felt, Atchison; A. G. Forney, Belle Plaine; W. A. Harris, Linwood; E. W. Hoch, Marion; L. Houk, Hutchinson; J. K. Hudson, Topeka; McCown Hunt, Leavenworth; Mrs. Laura M. Johns, Salina; L. D. Lewelling, Wichita; Dr. S. McLallin, Topeka; P. B. Maxson, Emporia; Sol. Miller, Troy; John R. Mulvane, Topeka; M. M. Murdock, Wichita; Mrs. Bina A. Otis, Topeka; N. L. Prentis, Kansas City; J. B. Remington, Osawatomie; Harvey D. Rice, Topeka; J. W. Robison, El Dorado; Charles F. Scott, Iola; Robert H. Semple, Ottawa; A. A. Stewart, Olathe; Edwin Taylor, Edwardsville; James A. Troutman, Topeka; Alex. Warner, Baxter Springs; A. B. Whiting, Topeka; L. D. Whittemore, Topeka; B. W. Woodward, Lawrence.

Member of the Board for the year ending January 19, 1897, to fill the vacancy caused by the resignation of Judge S. A. Kingman, Miss Lucy D. Kingman, of Topeka.

Governor Morrill then read the President's annual address, upon the subject "Trials and Hardships of the Pioneer Settlers."

At the close of the governor's address, Prof. Frank H. Hodder, of the chair of American history and administration of the State University, delivered an address on the subject "The Making of Kansas."

The members of the newly elected Board who were present then took the oath of office.

The Lotus club sang selections during the evening's proceedings. The meeting adjourned.

#### EVENING MEETING OF THE BOARD OF DIRECTORS—JANUARY 21, 1896.

At the close of the annual meeting, the Board of Directors convened and proceeded to an election of officers for the ensuing year.

The election resulted in the choice of Gov. Edmund N. Morrill for President, and Maj. James B. Abbott and Hon. Harrison Kelley for Vice-Presidents.

Hon. Geo. R. Peck, of Chicago, and Gen. George A. Forsyth, of Wilkes-Barre, Pa., were then elected as honorary members, and Samuel Hutchins Hurd, M. D., of New York City, and Murray E. Poole, of Ithaca, N. Y., were elected corresponding members. W. W. Phillips, of Topeka, was elected an active member.

The President announced that the standing committees would be appointed later.

The meeting then adjourned.



## JOHN G. WHITTIER.

John Greenleaf Whittier was born in Haverhill, Mass., December 17, 1807, and died at Amesbury, September 7, 1892. His parents were members of the Society of Friends. His first American ancestry came to Massachusetts in 1638; and the conversion to Quakerism took place in the second generation of the family in New England, and at a time when that sect was sternly persecuted. Thus Whittier inherited unswerving constancy to unpopular opinions. Born on a farm, Whittier's first occupations were those of a farmer boy, driving the kine to and from pasture, riding to mill, fetching in wood for the undying kitchen fire, and helping in the lighter labors of haying and harvest.

A farm-hand taught him shoemaking—a common occupation during the winter in the fishing and farming villages along the coast—and by this means he earned enough to warrant his attending, at the age of 20, Haverhill Academy during six months. Then he became a school-teacher; then a writer for newspapers. He read the old poets. The poetic instinct is said to have been awakened in him by the poetry of Robert Burns. As he himself said, "Burns was the first poet I read, and he will be the last." His own first poem, printed when the author was 19 years old, was published in William Lloyd Garrison's newspaper—the "Free Press." Five years later this farmer's son decided to cast his lot with the despised abolitionists, and to become in a distinctive sense the poet of freedom.

For 30 years Whittier's anti-slavery political lyrics appealed to a gradually widening audience. until his song of the "Kansas Emigrants" was heard from Massachusetts bay to the Missouri river, and his "Ein Feste Burg," and his "Song of the Negro Boatman" were sung in the union armies in the war of the rebellion. It cannot be said, however, that he ever deliberately wrote in praise of warfare; on the contrary, his poems are full of passages deploring it.

The autograph copy of the "Kansas Emigrant's Song," here published, with the accompanying note of transmittal, were given our Kansas State Historical Society in compliance with a request made for the same.





AMESBURY, MASS., May 26, 1891.

*F. G. Adams:* My sight has failed so much that I fear my writing will be unreadable. I would not have tried to copy anything for any other purpose.

JOHN G. WHITTIER.

---

SONG OF THE KANSAS EMIGRANTS.

We cross the prairie as of old  
Our fathers crossed the sea,  
To make the West as they the East  
The homestead of the free.

We go to rear a wall of men  
On Freedom's southern line,  
And plant beside the cotton-tree  
The rugged northern pine.

We 're flowing from our native hills  
As our free rivers flow;  
The blessing of our motherland  
Is on us as we go.

We go to plant her common schools  
On distant prairie swells,  
And give the Sabbaths of the wild  
The music of her bells!

Upbearing like the ark of old  
The Bible in our van,  
We go to test the truth of God  
Against the fraud of man.

No pause nor rest, save where the streams  
That feed the Kansas run,  
Save where our pilgrim gonfalon  
Shall flout the setting sun.

We 'll tread the prairies as of old  
Our fathers sailed the sea,  
To make the West as they the East  
The homestead of the free!

*John G. Whittier.*



Amos Beech, dealer  
May 26 1891.

J. G. Adams

My slight knowledge is so much  
that I fear my writing will be unreadable  
I would not have tried to copy anything  
for any other purpose.

John G. White



## Song of the Kansas Emigrants

We cross the prairie as of old  
Our fathers crossed the sea  
To make the West as they the East  
The Kennedys of the free.

We go to see a wall of men  
On Freedom's southern line  
And plant beside the cotton tree  
The rugged Northern pine;



We're flowing from our native hills,

As our free rivers flow;

The blessing of our Mother Land

Is on us we go.

We go to ~~the~~ ~~land~~ ~~the~~ ~~Common~~ ~~schools~~

On ~~the~~ ~~land~~ ~~the~~ ~~prairie~~ ~~schools~~.

And give the Subletts of the wild

The music of her bells!

Uphearing like the book of ~~the~~ ~~old~~

The Bible in our own,

We go to test the truth of God

Against the forces of man.

1000000



No more sunset seen when the streams  
 that feed the Kansas run,  
 I saw where our pilgrim gonjolan  
 Spoke first the settlements.

1939988

We'll tread the pioneer as of old  
 Our fathers sailed the sea  
 To make the West as they the East  
 The home-land of the free!

John G. Whittier

1000

## LUCY LARCOM.

Lucy Larcom was born in Beverly, Mass., in 1826, and died in Boston, April 17, 1893. As a child of seven years she wrote stories and poems for her own amusement. When she was 10 years old her father died, and her mother established a factory boarding-house at Lowell, where, after spending two or three years in school, Lucy entered the mills. While working as a cotton-operative, she contributed largely to the "Lowell Offering." John G. Whittier, then conducting a free-soil paper in Lowell, encouraged her literary efforts. When about 20 years of age she went to Illinois with a married sister, taught school there for some time, and was for three years a pupil in Monticello Female Seminary.

On her return to Massachusetts she was employed for six years in a seminary at Norton, but desisted on the failure of her health, subsequently only taking classes occasionally in Boston schools. During the civil war she wrote many patriotic poems. When "Our Young Folks" was established in Boston in 1865, she became an assistant and in the following year chief editor, conducting the magazine till 1874. A complete collection of her poetical works appeared in 1884.

At the opening of emigration to Kansas in the spring of 1855, Dr. Thomas H. Webb, secretary of the New England Emigrant Aid Company, offered a prize of \$50 for a Kansas poem. Eighty-nine were presented in competition. "The Call to Kansas," by Lucy Larcom, obtained the prize.

The fac simile of this poem, together with that of the interesting letter of transmittal by the author, were given our State Historical Society upon solicitation.



Mr. Adams:

214 COLUMBUS AVENUE, BOSTON, January 29, 1891.

DEAR SIE—I have been too busy to copy this earlier. Rewriting it brings back many memories of border struggles, and the excitement that preceded the outbreak of the rebellion. I was teaching at Wheaton Seminary, Norton, Mass., at the time I wrote the song; and, before I knew that the school knew of it, I was one day surprised by having it sung to me, in full chorus.

I have always hoped to visit Kansas, but have never found opportunity to do so.

Sincerely yours,

LUCY LARCOM.

### CALL TO KANSAS.

Yeomen strong, hither throng,  
 Nature's honest men!  
 We will make the wilderness  
 Bud and bloom again.  
 Bring the sickle, speed the plough,  
 Turn the ready soil!  
 Freedom is the noblest pay  
 For the true man's toil.  
 Ho, brothers! Come, brothers!  
 Hasten all with me!  
 We'll sing upon the Kansas plains  
 A song of liberty!

Father, haste! o'er the waste  
 Lies a pleasant land;  
 There your fireside's altar stones  
 Fixed in truth shall stand.  
 There your sons, brave and good,  
 Shall to freemen grow,  
 Clad in triple mail of right,  
 Wrong to overthrow.  
 Ho, brothers! Come, brothers!  
 Hasten all with me!  
 We'll sing upon the Kansas plains  
 A song of liberty!

Mother, come! here's a home  
 In the waiting West.  
 Bring the seeds of love and peace,  
 You who sow them best!  
 Faithful hearts, holy prayers,  
 Keep from taint the air:  
 Soil a mother's tears have wet  
 Golden crops shall bear.  
 Come, mother, fond mother,  
 List! we call to thee!  
 We'll sing upon the Kansas plains  
 A song of liberty.

Brother brave, stem the wave,  
 Firm the prairies tread;  
 Up the dark Missouri flood  
 Be your canvas spread!  
 Sister true, join us, too,  
 Where the Kansas flows;  
 Let the northern lily bloom  
 With the southern rose!  
 Brave brother, true sister,  
 List, we call to thee!  
 We'll sing upon the Kansas plains  
 A song of liberty!

One and all, hear our call  
 Echo through the land!  
 Aid us with the willing heart  
 And the strong right hand!  
 Feed the spark the Pilgrims struck  
 On the old Plymouth rock!  
 To the watch-fires of the free  
 Millions glad shall flock.  
 Ho, brothers, come brothers!  
 Hasten all with me!  
 We'll sing upon the Kansas plains  
 The song of liberty!



214 Columbus Avenue  
Boston, Jan. 29. 1891

Mr. Adams:

Dear Sir: I have been too busy to copy this earlier. Rewriting it brings back many memories - of border struggles, and the excitement that preceded the outbreak of the Rebellion. I was teaching at Wheaton Seminary, Woburn, Mass., at the time I wrote the song; and, before I knew that the school knew of it, I was one day surprised by having it sung to me, in full chorus.

I have always hoped to visit Kansas, but have never found opportunity to do so.

Sincerely yours,  
Lucy Weston





## Call to Kansas.

Geomen strong, hither throng,  
 Nature's "honest men!"  
 We will make the wilderness  
 And red bloods again.  
 Bring the sickle, speed the plough,  
 Turn the ready soil!  
 Freedom is the noblest pay  
 For the true man's toil.  
 Ho, brothers! Come, brothers!  
 Hasten all with me!  
 We'll sing upon the Kansas plains  
 A song of Liberty!

Harken, haste! o'er the waste  
 Lies a pleasant land:  
 There your fire-side's altar-stones  
 Fixed in truth shall stand.  
 There your sons, brave and good,  
 Shall to freemen grow,  
 Clad in triple mail of right,  
 Wrong to overthrow!  
 Ho, brothers! Come, brothers!  
 Hasten all with me!  
 We'll sing upon the Kansas plains  
 A song of Liberty!



Mother, come! here's a home  
 In the waiting West.  
 Sowing the seeds of love and peace  
 Upon who sow them best!  
 Faithful hearts, holy process,  
 Keep from taint the air:  
 Soil a mother's tears have wet  
 Golden crops shall bear.  
 Come, mother, fond mother!  
 List! we call to thee!  
 We'll sing upon the Kansas plains  
 A song of Liberty.

Brother brave, stem the wave  
 "From the prairies tread!"  
 Up the dark Missouri-flood  
 Be your canvas spread!  
 Sister true, join us too,  
 Where the Kansas flows:  
 Let the Northern lily bloom  
 With the Southern rose!  
 Prave brother true sister  
 List, we call to thee!  
 We'll sing upon the Kansas plains  
 A song of Liberty.



One and all, hear our call,  
 Echo through the land!  
 Aid us, with the willing heart  
 And the strong right hand!  
 Had the spark the Pilgrims struck  
 On old Plymouth Rock!  
 To the watchfires of the free  
 Millions glad shall flock:  
 Ho, brothers, come, brothers!  
 Hasten all with me!  
 We'll sing upon the Kansas plains  
 The Song of Liberty!

Lucy Larcom

1855.



## THE CONVENTION EPOCH IN KANSAS HISTORY.

An address delivered by Dr. RICHARD CORDLEY at the annual meeting of the State Historical Society, at Topeka, January 17, 1882.

Some time since, in preparing a paper concerning some early reminiscences of Kansas experience, I was led to describe the first free-state convention I attended after my arrival in the autumn of 1857. In looking over the matter more fully afterwards, I was impressed with the part these free-state conventions played in the early history of our state. So vital were they in all the anomalous movements of that anomalous time that this may be called "The Convention Epoch of Kansas History." I do not refer to the constitutional conventions, in which Kansas leads the entire sisterhood of states. There have been at least four of these: The Topeka, the Lecompton, the Leavenworth and the Wyandotte conventions, each presenting to the world a complete constitution. If any community shall be in need of a ready-made constitution, Kansas can offer the most complete assortment of any state. In this matter she defies competition. She can furnish a constitution with slavery, or a constitution without slavery, or a constitution half way between—excluding slavery and the negro, too. This last is commended to our dear Christian brethren on the Pacific slope. By substituting "Chinamen" for "negro," our old Topeka constitution would just grade up to their level of civilization.

But I do not refer to these constitutional conventions, nor to the ordinary political convention; but to the voluntary gatherings of the free-state people in the early years of our history. They were not the growth of years, nor were they copied from the example of other states. They grew from the exigencies of the times. They were the spontaneous coming together of the people to confer as to what they should do in the various emergencies that were upon them. They could exist only in an anomalous state of affairs. They came with the emergencies they were designed to meet; they thickened as the emergencies thickened; they passed away as the emergencies ceased. They had no legal authority, and yet through general concurrence their decisions became the law of their constituents as completely as any legislative enactments ever were. They could not be enforced, but they did not need to be enforced, for the people were a law unto themselves. Recognizing the federal laws, they repudiated the fraudulent territorial laws. They were a distinct commonwealth by themselves, and these conventions were their bond of union, and their officers and standing committees their leaders. The Topeka constitution, with its conventions and elections, its state officers and legislature, was the creature and instrument of this other convention movement, and the defeat of that constitution did not destroy nor weaken this less tangible, but no less mighty, organization back of it. That invisible commonwealth, represented in these free-state conventions, was simply driven to seek its ends in other ways. I cannot say how many there were of these conventions. Including those pertaining to the Topeka constitution, I find signs of at least nine different gatherings, from about July, 1855, to July, 1856, and some 10 from March, 1857, to December 23 of the same year. Some of these were spontaneous; some were in response to calls; some were mass meetings, and some were delegate conventions; but they all sprang from the exigencies of the times, and were designed to meet the ever-changing issues. I cannot speak of all of these. "*Ex uno, disce omnes:*" from one (or rather three) learn all. I will speak of the





convention at Big Springs, where the free-state party was formed; of that at Grasshopper Falls, where that party changed its policy; and of one at Lawrence, where that party was disrupted.

As the Kansas-Nebraska bill left the question of slavery to the popular voice, the North determined to make Kansas free by settling it with free men. It was soon discovered, however, that it was the Southern plan to stifle this voice of the people, if there were any danger of favoring freedom. At the first election for members of the legislature, March 30, 1855, thousands of armed men rushed into the territory from Missouri, took possession of the polls, and shaped the election to suit themselves. The settlers were thrust aside and residents of Missouri elected to the legislature. Only one free-state man was allowed a seat, and he resigned and left it entirely to the members chosen by outside voters. They adopted the Missouri code of laws without reading, made opposition to slavery a penitentiary offense, and required every voter to support the fugitive-slave law and the laws of the territory. Free-state men, therefore, could not vote to overthrow these oppressive laws without first taking an oath to support them.

The free-state men were placed in a very delicate and embarrassing position. To submit was to put themselves in the power of their enemies; to resist was to submit themselves to the charge of lawlessness. To submit was to allow a gross outrage to secure its fruits; to resist was to invite a long and doubtful struggle; to resist required wisdom and caution and unanimity. They must have a well-defined policy, thoroughly understand each other, and loyally sustain each other till the end was gained. They all agreed that the legislature was an imposition, its enactments a fraud, and its officials usurpers. But the usurpers had seized all the forms of law, and left them no legal remedy.

While the legislature was still in session a free-state convention met in Lawrence, June 25, 1855, and resolved, "That while we claim no right to meddle with the affairs of Missouri, we do claim the right to regulate our own affairs, and by the help of God we intend to exercise that right."

Two days later, June 27, a democratic convention met at Lawrence, with James H. Lane as president, and resolved, "That we consider ourselves capable of managing our own affairs, and kindly ask people north and south to let us alone."

This convention embraced those democrats who could not indorse the usurpation. The constituents of these two conventions blended in the free-state movement, which was just beginning to take shape.

The legislature met July 2, and continued in session until August 30. While in session, another convention was held in Lawrence, August 14 and 15, and resolved, "That we repudiate a government imposed by foreign force, and pledge our lives, our fortunes, and our sacred honor to a resistance to its authority."

You notice the shifting of the issue? It is no longer "slavery" or "anti-slavery," but "resistance to outside interference." Around this single issue the free-state party grew.

This convention at Lawrence provided for another, larger and more general, to be held at Big Springs, September 5, 1855. This was a delegate convention, and every settlement in the territory was represented, and over 100 delegates were present. The party grew larger as the issue grew narrower. It comprised, of course, all original free-state men, who came to make Kansas free; it comprised all democrats who wished to see fair play, and it comprised many southern men who had no interest in slavery. The party also drew to itself a large number of men who saw the shadows of coming events, and began to surmise



where the emoluments of the future state were most likely to be found. It included the abolitionists, who desired to make Kansas free because of their interest in the negro; it included also the black-law men, who desired to make Kansas free because of their dislike to the negro.

This enlarging of the party of course lowered its tone. They now repel, with scorn, the "charge of abolitionism"; they propose a "liberal treatment of slave property already here"; they propose to exclude negroes as well as slavery from the territory. Thus was introduced into the platform of the free-state party that black-law plank which appears in all its after history, and which was the only serious blemish in the Topeka constitution. But on the one great living issue of the times there was no ambiguity and no diversity. They declare the legislature which had just adjourned "a spurious body, and its enactments of no binding force"; they declare "every man is at full liberty to defy or resist them"; they declare "they will endure these laws only so long as the best interests of the territory require; and they will resist them to a bloody issue as soon as they learn that peaceful means have failed." Meanwhile they commend to their friends "the procuring of arms and the organization and discipline of military companies."

They go further than this. They declare the election law adopted by the legislature as "an attempt to rob them by weak and wicked legislation of their great American birthright, the elective franchise; they declare they will not meet with them on the day appointed for the election, but will themselves fix a day for the purpose of electing a delegate to congress." In accordance with this last resolution, they selected October 9 as a day of election, and appointed an executive committee to canvass the returns. They then nominated ex-Gov. Andrew H. Reeder for delegate to congress, and he accepted the nomination amid great enthusiasm. They also inaugurated the Topeka movement, which resulted in the Topeka constitution and legislature and corps of state officers. But this movement at Big Springs did not depend on constitution, or legislature, or officials. Rejecting the one or dispersing the other did not lessen the force of the movement itself. These were but its instruments, and if one instrument failed it seized another.

The position assumed at Big Springs was maintained for two years. It was an unique position to, which history furnishes no parallel. In consequence, they were misrepresented and charged with all manner of crimes; they were annoyed by all manner of legal processes; they were arrested under all manner of pretenses. Their farms were seized, their homes were burned, their towns were besieged, and their highways were blockaded. Their leaders were imprisoned. Their presses were burned, and many of their friends driven from the territory. But in spite of all this they adhered to their position of repudiating the bogus legislature, and all that flowed from it. They would vote at none of their elections; they would pay none of their taxes; they would recognize none of their officers. It was the first and grandest example of "boycotting" the world has ever seen. Their position was so evidently just and their bearing so prudent that every governor was compelled to recognize them, though coming with prejudice against them. When Secretary Stanton came as acting governor, in the spring of 1857, he made a speech to the people of Lawrence. It was a very fine speech, but it avoided the great issue of the day. In the midst of his flowery periods, some one in the crowd cried out, "But, governor, how about the bogus laws?" Without noticing the interruption, he went on with his speech. Again the question came from half a dozen voices, "But, governor, how about those bogus laws? Are they to be enforced?" "The laws must be obeyed," cried the gov-



error in tones of thunder. "Never, never," responded the crowd. "Then there is war between you and me; war to the knife, and the knife to the hilt." "Let it come!" was the instantaneous reply of the crowd. The governor closed his speech with the feeling that he had a determined people to deal with, and before many months he found himself looking for sympathy to those he had at first counted his opponents.

This condition of things continued for two years, and the free-state party was becoming the controlling power of the territory. It was very plain that the forms of power, as well as the fact, would soon pass into their hands. To prevent this, the other side sought to bring the territory into the union with a slave constitution. For this purpose the legislature, in the winter of 1856-'57, provided for a constitutional convention, which was to be chosen in June. Governor Geary, and after him Secretary Stanton and Governor Walker, advised the free-state men to participate in this election and take possession of the convention and frame a constitution to suit themselves. Several meetings were held in Topeka to confer about the matter, but the conclusion was to adhere to their position and ignore everything that flowed from the bogus legislature, and this convention with the rest. So the free-state men all abstained from voting, and the convention was entirely composed of pro-slavery men, and framed a pro-slavery constitution. But in settling this question another had suggested itself: Should they participate in the October election for the members of the territorial legislature? Governor Walker was very urgent that they should, and promised them a fair election, "a full vote and a fair count." Counsels were divided, and a convention was held at Grasshopper Falls, August 26, 1857, to decide upon the policy to be pursued. There was a long and warm discussion. Such leaders as Robinson, G. W. Smith and Holliday favored voting; the more radical men, such as Conway, Phillips, and Redpath, opposed. The proposition carried, and all acquiesced. The free-state men participated in the election, and gained control of the next legislature.

The convention chosen in June had framed what was called the Lecompton constitution. There was great danger that Congress would admit Kansas into the union under this constitution. In January an election was to be held for state officers, and a legislature to serve in case the state was admitted. The old question was before the free-state men again, "Shall we take part in this election, and gain possession of the state government in case we are admitted? or shall we ignore this election as we have everything else originating in that old bogus legislature?" Again counsels were divided; again a convention was called; and again it was necessary to decide upon a line of policy for the party. This convention met at Lawrence December 23, 1857. It was a delegate convention, and was very largely attended. Nearly all the names in free-state history were on its rolls, and nearly all the leaders of the party were present and participated in the discussions. Gov. Charles Robinson, the trusted adviser in all the past, was the president. There was the far-famed Jim Lane, of whom they used to say:

"One blast of his bugle horn  
Were worth a thousand men."

There was Martin F. Conway, the silver-tongued orator of the West; there was Marcus J. Parrott, keen, clear, and brilliant; there was Thomas Ewing, calm, scholarly, and eloquent; there was the President of the State Historical Society, in the freshness of youth, with the classic air of college life still about him and the fire of the times already burning within him. [T. D. Thacher.] There was



a host of others, many of whom have since made their mark in the history of the state. As you may judge, it was a remarkable body. One would travel far to find its equal. I was a stranger in the territory, and in attending its session I was impressed with its ability and with its profoundly earnest spirit. They spoke as men who realized that they were on the eve of great events, and that peace or war might hang on their decisions. The temper there displayed was more like what I imagine was the temper of the continental congress than anything I ever witnessed.

As I said, the question before them was, "Shall we vote for officers under the Lecompton constitution, and so take possession of it in case it is imposed upon us?" There was the same division as at Grasshopper Falls, only opinions were more decided, feelings were more intense, and the two parties better defined. The radicals insisted that the whole Lecompton movement was a fraud; born in fraud, and carried on in fraud. They reminded the convention of the fact "that they had all agreed that the old bogus legislature was a fraudulent affair." They had never consented to its laws; they had never recognized its officers. This Lecompton Constitution was the offspring of that bogus legislature, and they could do no other than treat it as a fraud like the rest. To vote for officers under it would be to stultify themselves, and to throw discredit on all they had said and done during the past two years. Besides, this election was in the hands of the creatures of the convention itself; and the pro-slavery party would control the election by fair means or foul. They believed therefore in maintaining the high ground on which they had stood for two years, and in fighting it out to what they were fond of calling "the bitter end." If this constitution should be imposed upon them, they would fall back on their reserved rights, as a people wronged and robbed in this whole matter.

The conservatives replied "that they must come out of the clouds and stand upon the ground. No matter what position they had hitherto taken, they must now adapt their policy to their present circumstances. The Lecompton constitution, fraud as it was, was now before congress. It was quite likely Kansas would be received into the union under it. If so, it became the law of the land in spite of all their high notions. Let us take possession of it, and administer it for ourselves, or change it as we will."

The radicals replied, "that the position hitherto taken was right, and it was right to adhere to it. The right was always wise.

"Right was right, since God was God,  
And right the day would win."

The conservatives retorted, "that all things were lawful in war. They must change front as the enemy changed position. As circumstances change, their plans must change. In the past it was wisest not to touch the bogus affair; it now seemed wise to take hold of it and strangle it."

Thus the discussion proceeded for two days. The radicals were the most eloquent and high-toned; the conservatives were the most experienced and shrewd. The radicals comprised the younger men, who followed impulse and conviction; the conservatives comprised the more cautious men and the political managers. As the discussion progressed the breach widened rather than otherwise. There was no sign of agreement, and no ground of compromise was found. A vote was reached at last, and the radical policy was adopted by a decided majority. The conservatives thereupon withdrew to the basement of the Herald of Freedom office, and organized another conven-





tion, which was known as "The Cellar-Kitchen Convention." They rejected the action of the majority, and nominated a full state ticket, which afterward received about half the votes of the party. The Lecompton constitution being rejected by congress, neither action was put to the test.

The free-state party may be said to have ended its career with the dividing of that convention on December 24, 1857. Its work was done. The issue that gave it being was settled. The common danger against which its members made common cause had passed. The common danger over, every man went his own way.

The history of the free-state people is the history of Kansas for the time. All our traditions point back to them. They were not only successful, but so completely successful as to take possession of the entire state, shaping its ideas, its institutions, and its laws. The pro-slavery party was a power in its day, but in its defeat it was extinguished. Its membership remained, but its ideas were submerged. It had no successor and no heirs. No existing party claims descent from it, or would tolerate the charge of such descent.

The free-state party dissolved, too, but its ideas lived and became the dominant and controlling forces of the future state. Its achievements and honors and memories are the common inheritance of all the people. We shall find in it the germs of all our best ideas, of all our best institutions, and of all our best laws.

Those spontaneous gatherings in which these ideas were fostered are of vital interest. They gave room for no political intrigue or private schemes, and so there was in them a freshness and a frankness of which the ordinary political convention knows nothing. The discussions were able and high-toned, and dealt in principles rather than in schemes. They had a wonderfully educating influence upon the people. You can trace the advance of sentiment from convention to convention. Free from sinister designs, the people were open to conviction, and the truth had free course.

It was a time, too, of intense excitement, and consequently of intense impressions. Ideas come to stay when they come to men in such a condition. Three such years would do more to mark a people for their own than three score of ordinary years. Kansas still bears the marks of those early days.

It was in these times of upheaval and of intense impression that Kansas received her form and spirit. It was then there was created that state sentiment—that wonderful "esprit de corps"—which makes every Kansan proud of his state. At the Centennial I met old Kansans from Maine, and from Oregon, and from everywhere, all boasting of our grand state display. No matter where a man may now chance to reside, if he ever lived in Kansas he reports himself ever afterward as "formerly of Kansas." The fires of that early time intensified our common life and welded us together as one common people.



## THE PRESIDENTIAL CAMPAIGN OF 1856—THE FREMONT CAMPAIGN.

Address of Col. CYRUS K. HOLLIDAY, President of the Society, delivered at the annual meeting,  
January 20, 1891.

### *Members of the State Historical Society, and Ladies and Gentlemen:*

At the time of my election to the presidency of your Society, a year ago, I thought, then, to embrace this opportunity to present some features concerning the Topeka constitutional convention and its work which, I think, have not heretofore been touched upon in any of the addresses delivered or papers read before the Society. But the death of our distinguished fellow citizen, John Charles Fremont, on the 13th day of last July, having awakened recollections of the great political campaign in which he was the leader, I have concluded to change my subject; and will therefore consume my portion of our time this evening in recalling to mind some of the prominent incidents of the presidential campaign of 1856, or of what is popularly known as the "Fremont campaign."

The preceding campaign of 1852 resulted in the utter rout and destruction of the grand old whig party, and gave the democratic party such a sweeping victory as it never had achieved before. Of the 31 states participating in that election, Franklin Pierce carried 27, and Gen. Winfield Scott but four. Of the electoral vote, Pierce had 254, or 86 per cent., and Scott only 42, or 14 per cent. Both the United States senate and the house of representatives were almost as largely democratic; and the supreme court was so constituted that it was regarded as morally certain to render its decisions upon political issues coming before it to accord with the policy of the party in power; as it afterwards did in the celebrated Dred Scott case.

The democratic party, therefore, having complete control of all three branches of the federal government—executive, legislative, and judicial—and the southern states having largely the control of the democratic party, it was perceived by the southern states and the pro-slavery element in the northern states that now was the time, if ever, to make provision for the further extension of slavery.

By the terms of the Missouri compromise—so-called—slavery was prohibited in all the territory lying north of latitude 36 degrees and 30 minutes—about the southern boundary of the state of Missouri extended west. This compromise was held and regarded by the country generally as a solemn compact between the free and the slave states; being the solution of the bitter controversy which had grown out of the admission of the states of Maine and Missouri into the union in 1820 and 1821. For a third of a century it had been held as most sacred by all sections of the union—as sacred as though it had been incorporated into and made a part of the constitution itself.

The great bulk of our unorganized territory lay north of 36-30, and by the terms of the Missouri compromise was forever dedicated to freedom. Practically only New Mexico and Arizona lay south of that line; and it was very questionable whether slavery would be of any value in these territories even if successfully implanted in them. It will, therefore, readily be seen that as this large domain lying north of 36-30 should become organized and settled as territories, and afterwards admitted into the union as states, and as free states, that the power of the free states would become greatly augmented, and that of the



slave states relatively diminished; especially would that be the case in the senate of the United States.

With the institution of slavery being thus circumscribed, and the anti-slavery sentiment of the country, especially in the northern states, growing stronger each succeeding year, it became absolutely necessary to that institution that this compromise barrier to the further extension of slavery should be removed, or the whole fabric would speedily tumble to the ground.

Viewing the whole situation, then, from the slaveholders' standpoint, and the party in power being so thoroughly entrenched in all the departments of the government, with, apparently, an indefinite lease of power, owing to the destruction of the whig party, the slave interest demanded that the Missouri restriction should be repealed, and that the institution of slavery be permitted to go unfretted and untrammelled into any and all of the territories of the United States; that not even local territorial laws could be enacted against it; but it was to be protected in the territories "subject only to the constitution of the United States." Hence, on the 30th of May, 1854, President Pierce signed the act for the organization of the territories of Kansas and Nebraska. In this act the solemn compromise between the free and the slave states was repealed, and the whole territory north of 36-30 opened to slavery, which for a third of a century had been sacredly dedicated to freedom.

Was it any wonder, then, that the anti-slavery sentiment of the nation became wrought up to the highest pitch of excitement toward this "greatest of all crimes against humanity," as it was justly characterized? this act of congress breaking down the old-time barrier against the further extension of slavery? the barrier which "the fathers had set up"? which had been erected by the common consent of both the two grand divisions of the country? which had the approval of all the eminent minds of the republic? and which had been sanctioned and sanctified by a period of time longer than half the years since the federal government had been established?

The whig party broken and powerless, and the democratic party committed to the perpetuation of this greatest crime against humanity, new political organizations began to spring up in all the northern states, having opposition to the further extension of slavery as the principal plank in their several platforms. These new parties were known by almost as many different names as there were states in which such parties were organized—the simple, direct and significant appellation of the "anti-Nebraska party," however, predominating.

While all these new state organizations agreed upon the one leading question—to prohibit the extension of slavery into the territories, and to rebuke the party in power for the repeal of the Missouri compromise, whereby such extension became possible—yet their state interests being largely adverse to each other there was great difficulty in combining them into one grand national political party. This must be accomplished if their opposition was to become effective against the dominant party of the country.

Now review the situation. The old whig party wiped out of existence, except, perhaps, a mere remnant known as the "Silver Grays"; the democratic party in power, and in high spirits—having the executive and both houses of congress in its control, and back of all the supreme court; and the anti-slavery sentiment of the country organized, or rather disorganized, as already suggested, into nearly as many state organizations as there were states: such were the not very flattering prospects to the friends of freedom when the presidential campaign year of 1856 was ushered in. And to add still further to the discouraging prospect, the know-nothing party—which



had startled the country a year or two before by the wonderful exhibition of its strength at the polls, as our alliance friends surprised the country at the last election—still largely existed in some of the states. In the northern states under the name of know-nothings, or nationalists; in the southern states under the designations of the American, or national-American parties.

All previous efforts to effect a national organization having failed, gloomy as the forebodings were, another earnest call for a convention was made, to which all of the northern and several of the southern states responded; and on the 22d day of February, 1856, at Pittsburg, Pa., the great political party which has shaped the politics and policy of the nation for 28 years was duly organized, and proclaimed to the world as the national republican party.

But a party without a leader is like an army without a general: each must have its efficient commanding officer if it would achieve the victory. Voters enough there were, opposed to the party in power, to carry the election, if they could be properly concentrated; as the result afterwards clearly proved. But who should the commander be? Who could gather together these numerous fragmentary organizations in the several states, mold them into one, and solidify the mass to make battle under the new name given them at Pittsburg?

Early in February, our distinguished fellow citizen, Charles Robinson, then governor of Kansas under the Topeka constitution state government, wrote a letter to Gen. John C. Fremont, in which, after reciting numerous incidents of their acquaintanceship in the trying days of California, he suggested that he—Fremont—would make the most available candidate to head the new party at the approaching presidential campaign. The letter was shown to Nathaniel P. Banks, who had just been chosen speaker of the national house of representatives, and to other prominent republicans, and by them the suggestion was cordially seconded; and in a few days many of the leading papers of the country had the name of General Fremont at their heads as their candidate for the presidential nomination. Among the first—doubtless the very first—papers to thus place Fremont's name at the head of their columns were the three papers published in the city of Lawrence, in this state, their owners being in a position, of course, to be early advised of the correspondence passing between Governor Robinson and General Fremont with regard to the general's nomination. The "Tribune," published by Hon. John Speer and William W. Ross, hoisted the name of John C. Fremont for president, and Cassius M. Clay for vice-president, early in April; the "Herald of Freedom," published by Geo. W. Brown, and the "Free State," published by Josiah Miller and R. G. Elliott, about the same time, or soon after; but neither of the latter suggested any name for the vice-presidential nomination.

'Tis true others looked upon the great "Pathfinder" as the illustrious captain to head the new party and lead it on to victory. But by common consent it was then conceded that the letter of Governor Robinson did more to attract public attention to General Fremont, to concentrate favorable public opinion upon him, and to inspire public confidence in him, than any other influence, perhaps than all other influences combined. So that, by the time the nominating convention assembled at Philadelphia, there was a general consensus of opinion that the "Pathfinder of the Rocky Mountains" was the proper person to receive the distinguished honor of being the first leader of the new party. Accordingly, on the 17th day of June, 1856, John C. Fremont was duly





nominated for president of the United States by that party; William L. Dayton, of New Jersey, receiving the nomination for vice-president.

On the 4th of July following, the legislative assembly under the Topeka constitution, then in session in Constitution hall, in this city, was dispersed at the point of the sword, and at the mouths of shotted cannon, by the United States troops under command of Col. E. V. Sumner, Lt.-Col. P. St. George Cooke, and Major Sedgwick. As the campaign was now beginning to attract considerable attention in the several states, it was generally reckoned—but as it afterwards proved, erroneously—that this dispersion of the free-state legislature would be the last act of violence to which the party in power would resort against the people of Kansas until after the election; and that our citizens would have a respite from arrest, plunder and assassination for the next three or four months at least. I regarded this as a good opportunity to visit my family, whom I had not seen for more than a year, and to bring them with me to Kansas upon my return. Accordingly, on the 7th of July I started for Pennsylvania; and upon my arrival there was almost immediately pressed into the campaign service, as so many other Kansans had already been in that and other states.

Those indeed were perilous times. No man could predict what a day might bring forth. I could not therefore leave the territory until I had visited the free-state prisoners at Lecompton, given them a word of cheer, and bidden them, perhaps, a last good-by. The names of the persons who had been arrested, and at this time were thus held as prisoners, under the charge of high treason, were Charles Robinson, Geo. W. Smith, Geo. W. Deitzler, John Brown, jr., H. H. Williams, Gaius Jenkins, and George W. Brown. Lest they should escape or be rescued, they were guarded in their tents by a considerable part of the army of the United States.

I shall never forget how sad the meeting, and how wofully sad the parting which took place that day. Judge Smith lay stretched upon the ground, with only a blanket under him, almost delirious with a terrific fever. I little expected then, that I should have the pleasure, afterwards of assisting to elect him to the high office of governor of our state under the Lecompton constitution.

By the by, it became a debatable question, those days, whether Mexico could inaugurate a revolution more quickly than Kansas could make a new constitution, and elect a legislature and state government in harmony therewith.

Nor did I expect that the next time I should meet Governor Robinson it would be at a reception worthy of a king, aye, greater than that! worthy of one who could suffer imprisonment, and if needs be death, in behalf of the poor, the defenseless, and the oppressed.

It was but a few days before the election in the October states. At the Academy of Music, in the city of New York, 10,000 people were within its walls. General Fremont and Mrs. Fremont occupied the most conspicuous box in the great theater. The stage was crowded with an assemblage of the most distinguished citizens, not only of that great city, but of the entire country. William M. Evarts—present United States senator from New York—had been chosen to make the set speech of the evening. Horace Greeley and James Gordon Bennett, of the "Tribune" and the "Herald," who were now working together for a common purpose, met face to face, upon that stage, for the first time, and were introduced to each other, amid the wildest enthusiasm and the most tumultuous applause of that great audience. But all of these



things were mere side-plays to that which was to follow. For none of these things had that vast audience assembled. But when Governor Robinson—representing then in his own person the great struggle for freedom in Kansas, and the wrongs and sufferings to which her people were subjected, as typified by his long imprisonment, and from which he had just been released—stepped before the foot-lights leaning upon the arm of Mr. Evarts, then there went up a shout from that immense throng which would have drowned the roar even of Niagara itself.

“What did the Prince of Wales say?” asked Mrs. Garrick of her husband, when arriving home, after putting on a new play, to which the prince had especially be invited. “Damn the Prince of Wales,” thundered Garrick, “the house rose at me!” And so the house rose at Robinson. And from the inspiration of that grand occasion I then felt, and ever afterwards, that the cause of freedom for Kansas was perfectly safe, and that sooner or later justice would be done to her people. For this great demonstration, this grand ovation, was not so much for the distinguished candidate for president occupying the private box, nor for the other distinguished gentlemen from Kansas who had attracted that large audience to the academy that night; but that the sympathies of the people were with the wronged and grief-stricken citizens of Kansas in their struggle to make it a free state, and that in the fullness of time their wrongs would be righted and their griefs assuaged.

By the time I reached Pennsylvania there were already scores of Kansans upon the stump. Not merely in Pennsylvania, but in all the eastern and northern states, especially in the doubtful states. Kansas orators were in great demand. And who, in Kansas at that time, was not an orator? I believe they call them “Spellbinders” in these modern, slangy and degenerate days. Being fresh from the field of conflict, they could depict in glowing colors the progress of the struggle—the outrages, the wrongs, the sufferings, the persecutions, the assassinations, to which our people were subjected; and subjected, too, with the concurrence, if not at the instigation, of the authorities at Washington.

William Y. Roberts, James S. Emery, James H. Lane, Samuel N. Wood and many others were already doing splendid service in my native state. The first named of these gentlemen—Governor Roberts—became my “running mate throughout the entire campaign. And what a splendid gentleman he was! And what great credit, honor and distinction he reflected upon our territory! What convincing speeches he delivered, and what unanswerable arguments he advanced! For several years he had represented his county in the legislature of that state, and was well known throughout the state. Up to this campaign he had always been a democrat, and being most highly respected wherever known, his canvass made scores and hundreds of votes almost daily for the republican nominee; especially in his own county of Fayette, and in Westmoreland, Green, and other immediately surrounding counties. This much I felt was due to that gifted and honorable gentleman. I would that the time and occasion might permit me to say more concerning him.

Attention should perhaps at this time be called to the fact that, among the doubtful states, Pennsylvania was regarded as the most doubtful. The other doubtful states were gradually dropping into line on one side or on the other. It became more and more apparent that, to elect Fremont, he must carry Pennsylvania. “As goes Pennsylvania so goes the union,” was the old legend that attached to the state, and in this contest it was likely to prove truer than ever



before. Hence the attention and interest of the whole country became more and more centered upon Pennsylvania. The contest, otherwise being equal, became unequal, from the fact that James Buchanan, a native and lifelong resident of the state, was the presidential nominee of the democratic party. His standing was of the very highest; his character unblemished. He was regarded and hailed as "Pennsylvania's favorite son." The interests, welfare and the prosperity of his state were very dear to him; and great care was taken to impress this fact upon the minds of his fellow citizens. State pride is a most potent factor—or was at that time—in contests like this; and, of course, that was greatly in his favor. Besides, for the preceding four years he had been minister at the court of St. James, under the Pierce administration; and hence, had not become complicated in any of the late political issues, notably the repeal of the Missouri compromise and the consequent dangerous Kansas controversy.

But, notwithstanding all this, the Fremont canvass gained strength and volume every day, and the republicans would undoubtedly have carried the state had it not been for a most remarkable transaction which took place in Philadelphia a few days before the October election. One man, by his energy, his tact, and his shrewdness, changed the whole aspect of the situation in a single hour, and brought success to the democratic party when victory seemed to be almost assured to the republicans. That one man was John W. Forney.

That we may more clearly understand the situation and the reason for the statement just made, let me call to your remembrance the organizations of the several political parties as they existed in Pennsylvania during that campaign. John W. Forney was chairman of the democratic state central committee; Charles Gibbons of the republican, and John P. Sanderson of the national American; Fillmore and Donelson being the candidates for president and vice-president of this last-named party. This, also, was a new political organization which had resulted from the great body of the know nothings combining with a considerable element of the old whig party. Besides all these, there was a "straight" know-nothing party still existing in Philadelphia and the immediate vicinity; and of the executive committee of this organization Mr. Sanderson was also the chairman.

Charles Gibbons was a Quaker, and to his education as such, more than to any other cause, may be attributed the defeat of Fremont at that election. But how orthodox a Quaker he was you may infer from the fact that the second speech which I made in the campaign was at Chester—a suburb of Philadelphia—whither I was sent to supply Mr. Gibbons's place, while he went down to Cape May to act as second for a friend in a duel. In order to have peace among his fellow men—one of the cardinal tenets of his society—Mr. Gibbons was evidently much like our own omnipresent and irrepressible Quaker friend, Col. S. N. Wood. He, also, in order to inculcate the great doctrine of peace among mankind, is always not only willing, but even anxious, to fight, to bring about so great a blessing.

I now come to the most important point in the canvass—the point upon which the fate of the election was suspended. The straight know-nothing vote was well understood to be a marketable vote, and it was conceded to be sufficiently large to control, at least, the state election. The issue at the state election in October was a square contest on the canal commissionership, between the democratic party on the one side, and the "opposition" as it was called—that is, all the opposing factions combined—on the other. If the opposition could elect Thomas S. Cochran, their candidate for canal commis-



sioner, on the 14th of October, by a fair majority, the chances for the republicans to carry the state for Fremont on the 4th of November would be very greatly increased. On the other hand, if the democratic candidate, George Scott, should be chosen canal commissioner in October, the state could hardly fail to go for Mr. Buchanan in November, as then the opposition vote, concentrated in October, would be divided in November between the Fremont and the Fillmore parties. It will, therefore, readily be seen how important a factor Sanderson and his 11,000 straight know-nothings were likely to become in the now rapidly approaching October election, and what an important part they were likely to play in both the state and federal elections.

Negotiations were entered upon about the same time for the transfer of this vote to the two leading parties—the democratic and the republican—Mr. Forney acting for the former, and Mr. Gibbons for the latter; Henry Wilson, United States senator from Massachusetts, and Truman Smith, United States senator from Connecticut, aiding and advising Mr. Gibbons to some extent in these negotiations. Interviews were frequently had, chiefly at Mr. Sanderson's office. Finally the culminating day arrived. Mr. Sanderson addressed a note to Mr. Gibbons asking him to call at two o'clock that afternoon; and, as his coming in so frequently at the front door might attract attention, requested that he would come in at the side door. Mr. Gibbons immediately replied that if he could not come in at the front door he would not come at all. Whereupon Mr. Sanderson as quickly rejoined that he—Gibbons—need not come at all; for since the receipt of his last note Mr. Forney had been there, and there was no further occasion for Mr. Gibbons to call. The bargain had been completed and the transfer duly made. A few days after the democratic canal commissioner was elected, but even under these extraordinary circumstances by less than 3,000 majority.

The exhibitions of wrath in the next few days of the republican advisers and managers against the "Quaker chairman," as Mr. Gibbons was afterwards designated, was something fearful to witness. Truman Smith, especially, was almost appalling in his denunciations of Mr. Gibbons, claiming that, if his Quaker principle or Quaker education prevented him from going into Mr. Sanderson's side door at a time like that, he had no business to be at the head of a great political party; that it was his duty to resign immediately, and let somebody take his place who was not so squeamish about stepping into gentlemen's side doors in overwhelming emergencies like that in which they were placed; and that the stupendous blunder of Mr. Gibbons—and that alone—would lose Pennsylvania to the opposition in October, and, consequently, would unquestionably give the state to Mr. Buchanan in November. He wished that he might have been in Mr. Gibbons's place, and he would not only have gone into Mr. Sanderson's side door, but even into the side door, or rear door, or any other door, of that proverbially hottest place on record, if, by so doing, he could bring success to the party and cause intrusted to his management.

And now occurred one of those extraordinary movements upon the political chessboard which shows with what consummate tact and ability the great canvass was being contested—barring the egregious blunder of Mr. Gibbons as just narrated. I think it is anomalous in our history. At least I have no information that it ever occurred before, and no recollection that it has ever been resorted to since. Three weeks only intervened between the October and November elections. The vote was close and the returns came in slowly, and it took nearly a week before the opposition would concede that the democrats had really carried the state.





But now something must be done, and that quickly, to avert the disaster of the October election, or all would be lost to the republicans at the presidential election in November. This is what was done. The Fremont and Fillmore state central committees were hurriedly assembled at the capital, and all others prominent in Pennsylvania politics opposed to Mr. Buchanan's election, together with the many distinguished opposition statesmen and visitors who for weeks had been gathering into Pennsylvania from the other states. When the entire opposition, fairly well united, failed to carry the election in October, what hopes could they have against the victorious party in November, if they were to go to the polls divided—divided between Fremont and Fillmore against the solid vote of Buchanan, made doubly solid by the October success? To avert this danger, to prevent this division, or rather to bring about a strong consolidation of the opposing forces, a combination electoral ticket was agreed upon at Harrisburg. This ticket, if elected, was to be distributed between Fremont and Fillmore in the proportion that each of them should become indorsed by the popular vote.

The state was entitled to 27 electors. By this arrangement 26 of these electors were to be common to both tickets but the twenty-seventh elector—or really the first elector at large—was to be a different person upon each ticket. To make the matter as comprehensible to the people as possible, the name of John C. Fremont was placed at the head of one ticket as one of the electors at large, and the name of Millard Fillmore was placed at the head of the other ticket as one of the electors at large—all the other electors, beginning with a Mr. Irwin as the second elector at large, being the same upon both tickets. If then this combination ticket should be elected, and Fremont, as an elector, should receive, say two-thirds of all the votes cast for such ticket, and Fillmore, as an elector, one-third—then the electoral vote was to be divided between them in the same proportion—two-thirds to be cast for Fremont and one-third for Fillmore.

What complications might have arisen out of this curious and anomalous arrangement had the ticket been successful it is difficult to say, but the country was saved all anxiety upon that score; for when the November election occurred, Mr. Buchanan, having the great prestige of the October election in his favor, swept the state with such a large plurality as to leave no question for controversy about the famous combination ticket. And the vote of his state also made him president of the United States; for without the electoral vote of Pennsylvania, he would have lacked two votes of having a majority of the electoral college.

I am to-night simply reciting some of the historic incidents of this memorable campaign, and I do not feel that it is my province to go into a discussion of the ethical questions arising from Mr. Gibbons's refusing at the last moment to enter the side door of Mr. Sanderson's office, or whether it was right, or whether it was wrong, to engage in that sort of business at all. And yet, at the time, the position taken by Senator Smith seemed to be the proper one; for if it was wrong at all, it was as wrong at the beginning of the negotiations as at any stage in their progress. The vote was well understood to be in the market. It would determine the October state election, and after that the federal election, and consign the national government into the hands of the old democratic—then pro-slavery—party, or into the hands of the new republican—then anti-slavery—party, for the ensuing four years. Mr. Gibbons as well as Mr. Forney had been in negotiation for that vote. Having gone as far as he did, and the vote being of such incalculable value to the party he repre-



sented, it seemed inexplicable that Mr. Gibbons should have dropped the whole business when he did, where he did, and in the manner he did, and on account of the supposed questionable character of the transaction.

The old adage that "you must fight the devil with fire" could never have been more appropriately applied than in this instance. If Mr. Gibbons could not control this vote, Mr. Forney would, and the vote would control the election. By the failure, then, of Mr. Gibbons, at this critical moment, to meet and satisfy the extraordinary demands of the occasion, he lost the election to his party, permitted Mr. Buchanan to carry his state, and surrendered the control of the national administration to the democratic party for the ensuing four years.

But the great poet and dramatist has told us:

"There's a divinity that shapes our ends,  
Rough-hew them how we will."

And may not that divinity have interposed itself at so unexpected and so unostentatious a place as the simple side door of John P. Sanderson's office? Victor Hugo, speaking of the defeat of Napoleon at Waterloo, asks: "Was it possible, then, that Napoleon should have won that battle? We answer, No. Why? Because of Wellington? No. Because of Blucher? No. Then why? Because of God." Not perhaps, so far as the autonomy and integrity of nations were concerned, but in its grander and more far-reaching effects upon the human race, the election of 1856 was of vastly greater importance than was the battle of Waterloo. Viewing it in that light, is it too much for us to say that, like Waterloo, that election terminated as it did, "because of God"?

The election of General Fremont to the presidency in 1856 would have precipitated the great civil war just as surely, and just as quickly as it was precipitated after the election of Mr. Lincoln in 1860. But was the Union sentiment of the nation as well prepared for the conflict in 1856 as it was in 1860? Did it not require still four years more for the new party to become strong enough and adhesive enough to withstand the terrific shock of the confederate government, its organization and its armies? The union numbers were there; but were they sufficiently organized? The union sentiment prevailed; but was it fully crystallized? The half dozen different party organizations which sprang up in the northern states after the defeat of the old whig party, had to be gathered together and molded into one, to make them effective, and it required these intervening four years between 1856 and 1860 to bring about that result.

But again: Would Senator Douglas with his enormous following in the democratic party, including many of the ablest statesmen in the republic, have been as prompt in tendering his services and theirs to President Fremont as they afterwards tendered to President Lincoln, and without whose patriotic and enthusiastic support the great rebellion might have had a different ending? In short, were the friends of the union sufficiently organized and prepared for the great conflict in 1856? or did it not, rather, require another four years to strengthen and solidify the union sentiment and the union forces to successfully withstand and beat back the terrific rebellion which arrayed itself against the life of the nation in the spring of 1861? Therefore, was it possible for Fremont to win the election? No. Why? "Because of God."

And then again: With Fremont elected and in the presidential chair, who could have forecast the future? His intense patriotism, his abhorrence of



slavery and love of liberty, no one will question. These were the principal elements in the formation of his character. But with his fiery, impetuous and uncontrolable zeal, what errors of administration he might have made. What blunders, as commander-in-chief of the army, he might have committed, as several incidents in his public career fully show. Might not his enthusiasm and impetuosity have carried him away beyond his people—beyond their physical and financial support—and thus brought irreparable disaster to the union cause? In this view of the case, it is, perhaps, well for our country—the entire country, both north and south—well for the four millions of slaves in the southern states, well for those held in bondage in all other lands, well for the cause of freedom throughout the world, and well for republican institutions in all enlightened nations, that Fremont failed of an election to the presidency in 1856, and that the mighty interests at stake to the republic and to mankind should devolve upon one who was to come after him.

Aside from the campaign proper, but intimately associated with it, there were two incidents which should be briefly noticed in this connection. When the result of the October election became known, it was vigorously urged by some of the republican managers that the presidential election could still be carried for Fremont; for the reason, as they claimed, that at the October election the Quakers had not voted. But that now, seeing how close the state contest had been, they, the Quakers, would rally with all their strength and contribute votes enough, at the November election, to seat General Fremont safely in the presidential chair. This promise, as we have already seen, proved to be a dismal failure. The quakers did not vote; or, if they did, getting alarmed at the threats of disunion in the event of Fremont's election, they went quietly to the polls and voted for Mr. Buchanan.

But it became a current witticism of the day, that while the Quakers failed to vote at either the October or November elections, they made a grand rally and did some splendid voting at Harrisburg on the 13th of January following, when a United States senator was to be chosen. The legislature on joint ballot stood 68 democrats to 65 republicans—or, rather, all shades of the opposition. Assurances became circulated, confidentially, among the opposition, that if their 65 votes could be solidly concentrated upon General Simon Cameron, he could, and would, secure from the democratic members the two or three additional votes requisite for his election.

Mr. Forney had been thrust forward as the democratic candidate for senator, and Mr. Buchanan, as a reward for the splendid service rendered him, wrote a letter to his party friends at Harrisburg, insisting upon Mr. Forney's election. This letter proved to be very unfortunate, not only for Mr. Forney, but it also seriously injured Mr. Buchanan himself, with Henry D. Foster, William Wilkins, and other senatorial aspirants and their friends. But it made General Cameron's work all the easier; for it gave three of the disaffected democrats a good excuse to change their votes. And so, on the day of the election, as the voting progressed, representatives Lebo and Wagonseller, from Schuylkill county, and Menear, from York county, deserted Mr. Forney and cast their votes for General Cameron, thus securing his election to the United States senate by one majority. Schuylkill and York were not considered very good Quaker counties, and Lebo, Menear and Wagonseller did not sound very much like good Quaker names; but the result was hailed all the same as a grand Quaker triumph, especially by the republicans, who felt most aggrieved against Mr. Forney for his general course during the campaign, and particularly for the Sanderson affair.



The other incident to which reference has been made, concerns Mr. Forney's radical change of front upon the Kansas question. I never could understand why Mr. Forney should be regarded as the special favorite of Kansas, when we remember the violent manner in which he attacked the cause of Kansas and the friends of Kansas throughout that memorable campaign; and also when we remember the extraordinary service he rendered Mr. Buchanan, without which service Mr. Buchanan could not have carried his own state and been elected president. He saved Pennsylvania to Buchanan, but did it at the expense and injury of Kansas. The principal plank in the Philadelphia republican platform was to settle the Kansas controversy, and stop the outrages in our territory by the admission of Kansas into the union under the Topeka constitution. Had Fremont been elected, Kansas would have speedily been admitted, and all our troubles would have ended. But to all this Mr. Forney was bitterly opposed, and carried his point by the election of Mr. Buchanan, and by the very questionable methods to which he resorted. Hence, as before suggested, I cannot understand why Kansas should exhaust herself in conferring honors upon Mr. Forney, or in shouting hosannas to him as one of the saviours of the commonwealth.

'Tis true he afterwards broke with President Buchanan and the democratic party, and championed the cause of Kansas, when its admission under the Lecompton constitution was the absorbing topic. But whether this was an honest conversion on the principles involved, or only resentment against his party for their failure to elect him senator, or against President Buchanan for not inviting him to a seat in his cabinet, is a question.

At the organization of the second congress under President Buchanan's administration—the off year—Mr. Forney was chosen clerk of the house of representatives by the republican and anti-administrative members, as Governor Pennington, of New Jersey, had been elected speaker two days previously. Mr. Forney was serenaded the same evening, and, in his speech of thanks for the compliment, quoted these memorable lines from Lord Byron's "Mazeppa":

"They little thought, that day of pain,  
When launched, as on the lightning's flash,  
They bade me to destruction dash,  
That one day I should come again,  
With twice five thousand horse, to thank  
The count for his uncourteous ride.  
They played me then a bitter prank,  
When, with the wild horse for my guide,  
They bound me to his foaming flank.  
At length I played them one as frank,  
For time at last sets all things even;  
And if we do but watch the hour,  
There never yet was human power  
Which could evade, if unforgiven,  
The patient watch and vigil long  
Of him who treasures up a wrong."

While our people were thankful to Mr. Forney that he had ceased to be our enemy and had become our friend, the lines just quoted strongly indicate that he became our friend more to "get even with somebody" than from any special love to either Kansas, her cause, or her people. Besides the election of General Banks as speaker of the popular branch of congress in 1855-'56, and of Governor Pennington in 1859-'60, and the 400,000 popular majority against Mr. Buchanan at the recent election, all may have had something to do with





his change of front, as they all pointed with unerring certainty to the course of political supremacy in the very near future. If Mr. Forney had been chosen senator on January 13 instead of General Cameron, or if President Buchanan had placed him in his cabinet, would he have been as earnest a friend of Kansas during the Lecompton period as he afterwards became? Let his Mazeppa speech supply the answer.

In reviewing the situation, then, from to-day's standpoint, we repeat that it seems well that General Fremont failed of an election to the presidency in 1856, and that the almost overwhelming responsibilities growing out of the great civil war were transferred from him and his day to Abraham Lincoln four years later.

But the Fremont campaign was by no means a disaster to the party or to the country. Except in the mere matter of Fremont's non-election, it must be regarded as a great success. It brought the friends of freedom squarely upon the same platform: First, to resist the establishment of slavery in Kansas; and second, to demand its exclusion from all the territories—not even excepting New Mexico and Arizona, to which it might have gone under the implied permission of the Missouri compromise. It brought the union sentiment of the country to see clearly the dangers threatening the republic, and to measure the extremities to which the pro-slavery element would resort in order to carry their institution beyond its heretofore prescribed limits. But besides all that, it showed the relative popular strength of parties. While Mr. Buchanan was chosen president by a large plurality, the popular vote showed a majority of nearly 400,000 against him and his party. It also showed with inspiring—almost religious—enthusiasm that a grand movement in the cause of freedom and against the institution of human slavery could be conducted.

It was, indeed, the campaign of enthusiasm. Who that witnessed them will ever forget the huge processions and the enormous crowds which everywhere characterized the Fremont campaign? the eloquent speeches which were delivered? the inspiring songs which were sung?

The very large majority of the young men of the country—in the free states of course—who were to cast their first votes at that election were on the side of Fremont, free Kansas, and free territories. Nor did they stop to reason very elaborately of the rights of slavery under the constitution and laws of the land. Because, they claimed, such rights had become forfeited in the attempt to break down the rights of others; that if slaveholders had no respect for the traditions and compacts of the nation, where their interests were involved, they must not expect others to hold their asserted rights in very high esteem. Therefore, from day to day, as the campaign went on, they became more and more educated to the idea that slavery was wrong, morally wrong; and being wrong, that its further extension should be prohibited, and that thereafter it should be made to take care of itself without the intervention or support of the federal government. They said, in effect, to the slave power: "You are not content to let your institution rest securely in its past protected limits, but must needs violate the most binding obligations, and remove the ancient landmark, which the fathers have set up in order to extend it into territories heretofore dedicated to freedom. Now you must suffer the consequences of your own acts. As you have removed the 'ancient landmark' which has been the line of demarkation between the free states and the slave states for a third of a century, you and your institution must suffer the curse entailed."

As the canvass progressed and these ideas became more and more prevalent, the campaign assumed rather the character of a great moral upheaval than of



a mere political contest. In fact, it became lifted out of the domain of politics pure and simple, and was elevated, as it were, upon the higher plane of morality. In the discussions which ensued, the highest rights of man became more and more the principal topic for consideration—his right to possess his own person and to appropriate and enjoy the fruits of his own toil; and the denial of this right to one—"no matter what complexion an African or an Indian sun may have burnt upon him"—was regarded as a menace to the rights of all.

Toward the close of the campaign, therefore, what grand and imposing scenes were witnessed; one thousand, five thousand, ten thousand, aye, even twenty thousand voices together chanting De Lisle's marvelous hymn, which required but little paraphrasing to adapt it to these occasions:

"Oh, Liberty, can man resign thee,  
 Once having felt thy generous flame?  
 Can threats subdue, or bolts confine thee?  
 Or whips thy noble spirit tame?  
 Too long the world has wept, bewailing  
 That falsehood's dagger tyrants wield;  
 But freedom is our sword and shield,  
 And all their arts are unavailing."

This, they found, was just as applicable and inspiring to them in beating back the encroachments of slavery as it was to the French citizen struggling for more enlarged personal liberty in his native land.

And then what wild, what tumultuous enthusiasm would be aroused in the breasts of those great masses of the people as the grand chorus, appropriate only to that campaign, would swell out upon the scene:

"Arise, arise, ye brave,  
 And let your war-cry be,  
 Free speech, free press, free soil, free men,  
 Fremont and victory!"

An enthusiasm to be likened only to that which the French soldiery exhibited at the storming of the Malakoff under the inspiring strains of the same grand hymn, or which impelled the crusader onward, when following the cross, to the rescue of the holy sepulchre.

And how splendidly the young leader of the republican party sustained himself throughout all that great campaign. Not a misstep did he make. Not a blunder did he commit. No stain attached to his brilliant character. Even his name, as seen in the alliterative connection just presented, greatly heightened the interest in the canvass:

Free speech, free press, free soil, free men,  
 Fremont and victory.

And while he failed of the election, yet to him must be accorded the distinguished honor of being the first standard bearer of the national republican party; of giving strength and character and solidity to that party; of exhibiting to itself its vast resources, its powers and its capabilities; and of organizing it for the battle to be fought and the victory to be won at the next campaign. Surely, then, liberal honors should be awarded him for the grand achievements which have become the inheritance of that party in after years.

Without Fremont we might not have had Lincoln. The work of the one was preliminary and necessary to the success of the other. Like that other John, like that other "Pathfinder," the forerunner, he was the voice of one crying, Prepare the way, and make the paths straight for that most resplendent character of the nineteenth century, the savior of his country, who, in the next four years, should come after him.



## HISTORY AND HISTORICAL COMPOSITION.

Address of Hon. JAMES S. EMERY, President of the Society, at the annual meeting, January 19, 1892.

Gentlemen: We bring to the services of this annual gathering a bitter sorrow. Since our last meeting the high and the low have fallen. Many of those whose names were indissolubly connected with our society, either as active or as honorary members, have passed beyond the boundary of this earthly life. Several of these were active as founders of our organization. All of them were good and true men, and their memories are left to be treasured up in the archives of this society. Most of them crowned with years have gone down to the grave in the calm decay of their autumnal season. But one, notably, had hardly passed the bright summer of his high career: he whose auspicious prime held out the flattering promise that his past busy years of work for the state were only the pledge of a still ampler if not a higher service. We cannot bury these many colaborers with us in the founding and upbuilding of Kansas in utter silence. We are moved to the proper commemoration of their services by all the better instincts of our nature, and hence I am glad to announce, here on the threshold of this discourse, that appropriate provisions have already been made by this society to properly commemorate the lives of these men, and to commit their memories to enduring forms.

I wish to say something about our work, and therefore I will call my subject: History and Historical Composition.

Ours is a young state; and hence we are chiefly concerned, in all we are doing in the State Historical Society, with the beginnings and the origins of things. So, for some 20 years since this society was founded, we have listened at all our annual meetings to papers and speeches about the first things which Kansas did as she started out in her territorial career in 1854. These papers, these speeches, and unnumbered printed documents, numerous personal recitals of individual experiences in the first settlement of the territory, together with a collection of portraits, drawings and paintings of both men and things, all crowned with an immense newspaper bureau—tucked away in quarters all too narrow and circumscribed—all these accumulations of the past 20 years, go to the credit account of our work as a society. This feature of our doings seems now quite complete. When we shall have catalogued what we have gotten together, so that the student may gain ready access to the various sources of the particular information he may be in quest of, then this society will have securely laid the corner-stone of that splendid edifice which those who shall come after us are to carry on to completion. This society is to-day a gatherer; it will some time become a builder.

Historical work is never done and finished up, ready to be laid away as a job completed. Just as long as human society goes on, just so long historical material accumulates and piles up, so to speak. And this is only saying that "Politics to-day becomes history to-morrow." The State Historical Society of Kansas will not have completed its legitimate work, and will not have finally discharged its trust to our people and to the state, when it shall have garnered up and safely deposited in its archives full and exhaustive data of



all that has been done in Kansas in the last generation and a quarter. We are yet in the infancy of things in our state, and this Society is enlisted in a work that has no end.

It is destined to lead in stimulating historical studies in the entire Missouri valley. It is to help do for this vast mediterranean region of country we inhabit what like organizations have aided in accomplishing elsewhere. It is said that in the number, variety, extent and attractions of historical work now offered at Harvard University that institution rivals the great schools of the old world. The American student need no longer go abroad for his instruction in either our own or European history. The first historical society in the United States had its home in Boston, hard by this venerable institution, and the influence of that pioneer society upon advanced historical study and original research has been most marked.

A similar work for the Mississippi valley is to be done through some agency. What organization is so well equipped as ours to do its full share in that work. We, settlers in the trans-Mississippi region, are a people largely interested in economic questions. History is with us to become more economic, and economics to become more historical, both in object and method.

The chair of American history is the foremost one in all our great schools which are kept up fully abreast of the times. You who are college men before me to-night can go back to the time you recited annals of ancient Grecian and Roman history during your college courses, for a few weeks, and were afterwards turned out into the world as liberally educated men. History held the back seat in those days. But all this kind of thing is past in our present educational methods. Those teachers whose names are on the lips of men oftentimes as advanced scholars, at Ann Arbor, at Cornell, at Harvard, and Johns Hopkins, are the professors in historical study at these several institutions.

Nor can we be at all surprised at this high rank historical pursuits have gained in popular regard and esteem. That brilliant essayist, Macaulay, has said, "to be a really great historian is perhaps the rarest of intellectual distinctions."

We note also, in this connection, that the bureau of education at Washington is devoting much study and attention to American educational history in the different states, and some dozen circulars of information by way of contributions to this history, have already been issued by the commissioner in charge, but edited by the distinguished professor of history in Johns Hopkins University, Mr. Adams.

Kindred to this interest manifested by the Washington government in our educational history, I may notice the revival of archaeological studies, and the present popular interest awakened in excavating for lost cities and in bringing to light the buried secrets of the past. Everything that pertains to the past occupancy by man of our planet is now being dug up, turned over, studied, classified, and stored away for reference and instruction. Moved by what I like to designate as the historical sentiment of our nature, no limit is being placed upon the outlay of both brain and money to discover and find out what man has been doing in all the past.

Since the time that the childlike races, high up in the table-lands of central Asia, first looked out upon the objects of their senses, and naturally fell to inspecting whatever was most noticeable in the skies above them or in the forces of nature about them, there has been no hour when mankind has seemed so anxious to peer into the past, and also to gain a glimpse of the future, as now.

Two hundred and one years ago the first local historical association was





founded in the United States. I need not say this was on the shores of Massachusetts bay. It marked the beginning of a new phase in American history—a beginning that has since grown, till to-day all the foremost states have local organizations similar to our own. The uplifting influence of that local historical society has been most significant. If we direct attention to what has been regarded as the classical period of American historical literature—the early part of the present century—“we find ourselves confronted with a striking fact of geographical distribution. If we tried to name the 10 principal historical writers of that period, we should find that seven or eight of them were Massachusetts men, of old New England families, born in or near Boston, and graduates at Harvard College.” “There is one spot of a few acres in Cambridge,” says Professor Jameson, in his new book, “The History of Historical Writers in America,” “upon which three of the most eminent historical scholars of the last generation dwelt, and upon which have dwelt three of the most prominent historical writers of our time.”

The thought at bottom, in the literary pursuits and historical studies of those who achieved this high distinction for the state of Massachusetts, has been a study of our national life. That result that manifested itself in the great anti-slavery struggle in New England was, in the light of these facts, an entirely natural result. They had kept the lights burning, and when the great war came on, in 1861, a company of men, and women too, arose in that section of our common country who made history, and wrote it too, in a sense so striking and peculiar as to have attracted the attention of the critical world. These people chronicled the lesson of American history—which is a lesson of love of liberty—in poetry, in art, and in song.

What may be considered the beginning of organized effort in the study of our own history centers in and about local societies in the various states, like our own in Kansas. Certain of these organizations have achieved little, while others have done much. “Some are lifeless, or, like Pope and Pagan in Bunyan’s allegory, are toothlessly mumbling over and over again the same innutritious materials; some that seem full of activity direct that activity toward any but the most scientific ends.” But they have, each and all, been school-masters to lead the popular mind, in the various states, to a consideration of the claims of historical culture as useful to the state and as calculated to foster real patriotism among all classes of our citizens.

But what is history, one may most pertinently ask, and what is correct historical composition?

This query is not an unimportant one to be made in this hasty discussion. Most people have their notions as to what history is, and they have a common idea as to how it is generally made up and put into books and other enduring forms; and yet in truth history is not the simple matter we commonly conceive it to be, and historical composition exacts the highest art and the rarest of scholarly attainments of every one who would write history so as to please, instruct, and to be read.

“It is a science,” says one. It is “a fiction agreed upon,” said Napoleon. To his friend who wished to while away the enforced leisure of Sir Robert Walpole, by reading history aloud to him, the premier exclaimed, “Read me anything except history; I know that isn’t true.” This was the opinion of a man who had been for 20 years prime minister of England.

Nowadays it is in order to speak of history as a science, and in our higher institutions of learning it is put in the curriculum alongside of political economy, or sociology, to use a newer term, to be studied together. But Mr.



Froude ridicules the idea of joining together the words "science" and "history." He thinks history is like a child's box of letters, with which we can spell any word we please. He thinks history should be written like a drama, for he says it is nature's drama. It repeats one lesson, and only one, with entire distinctness, and that lesson is, that the world is built somehow on moral foundations; that, in the long run, it is well with the good; in the long run, it is well with the wicked; and all this is no more science than it was when taught as an old doctrine by the Hebrew prophets. With him history addresses the understanding less than the higher emotions; by its study we learn to sympathize with what is great and good and to hate what is base. It is a voice forever sounding across the centuries the laws of right and wrong. But we can draw no horoscopes from its lessons, nor assume to predict what fruits reformations and resolutions will bear. He would have no philosophy of history, and he intimates the best way to write history is to make a book containing only premises, leaving the reader to draw his own conclusions and gather up his own lessons. He closes his brilliant essay by saying that the riddle of man's nature will forever remain unsolved. Mr. Froude is no pessimist, and yet the world would derive but small benefit from a study of the past were his views and methods our sole guide. Because the riddle of human life may never be understood fully here, the lessons of that life can be none the less instructive.

The historian Macaulay declared for the dramatic style of historical composition. With that brilliant writer, the art of historical narration is the art of interesting the affections of the reader and of presenting pictures to his imagination. Perfectly and absolutely true, history cannot be. "A history in which every particular instance may be true may on the whole be false." It "begins in novel and ends in essay." He would subordinate important past events to insignificant past events when by the recital of the latter he could give to the reader a better picture of his subject. The scale on which he would represent events "is increased or diminished, not according to the dignity of the persons concerned in them, but according to the degree in which they elucidate the condition of society and the nature of man." "Men will not merely be described, but will be made known to us." While he would show us the court, the camp, and the senate, he would also present a picture of the nation—the people, with their changes of manners, never forgetting their domestic history—as absolutely necessary to any correct progression of political events.

Monteil says, "National history is a history of the various conditions of a nation"—the conditions of the agriculturist, the artisan and the trader first; next the callings of the financier, the artist, the physician, the teacher, the lawyer, and the priest. He thinks the French have no such national history; and he wonders why it is that during the 3,000 or 4,000 years people have been writing history, the world should to-day be without one.

Doctor Arnold says, "History is but time's follower; she does not pretend to discover, but merely to register what time has brought to light." It is the biography of a society. It is to the common life of the many what biography is to the life of the individual.

Schelling, in his "Philosophy and Religion," gives this allegorical definition of history: It "is an epic conceived in the spirit of God; its two parts are the movement by which humanity leaves its center to expand to its utmost development; and the other, the movement that effectuates its return. The



first is like the Iliad of history: the second is its Odyssey. The first movement is centrifugal, and the other is centripetal."

In his new book, "Historical Lights," Mr. Little says: "Historical statements awaken in the average mind an interest which proves the existence of a hidden element in them that does not pertain to a mere account of facts. The marvels of history, and the prosy facts as well, not only attest the oneness of human nature and the unity of human experience, but they also forecast a shadowy premonition of coming events." And he adds: "This that has found its graceful expression in the words of a German writer who says, 'All history is an imprisoned epic, nay, an imprisoned psalm and prophecy.'"

The modern evolutionist will tell us that history is an account of that eternal process of creation that goes unceasingly on about us, evolution itself being the temporal aspect of this process, which is only a self-unfolding of God, and it culminates in man, for man is the son of God.

These theistical and abstract views and definitions of what history is are not wholly uninformative to the every-day life we are leading. They nourish that generous and liberal fastidiousness which is not inconsistent with the keenest sensibility to merit, while it can but exalt our conceptions of the art itself.

But our own times are less theistical and more fruitful in whatever field of letters we may take up work. The practical uses of history for an all-round man of affairs in our work-a-day times are the special objects of our research and study. As history was written in its infancy, it was little else than a genealogy of princes and field-book of conquerors. The lives of queens, the intrigues of kings, the sayings of courtiers, were the stock in trade of most early annalists. Their accounts fail to acquaint us with the people they write about. They put their own speeches into the mouths of their heroes, and give us their own interpretations of the events they relate.

Mr. Webster, in his discourse before the New York Historical Society, a little more than a year before his death, criticised the old and faulty methods of historical compositions, and pointed out the way of a reform that has since been followed in our schools and colleges, in imparting historical training. It was a discourse in which that great statesman undertook to instruct historical writers in the canons of their art. He set limitations to Bolingbroke's old but famous saying, that "history is philosophy teaching by example." "This saying," he says, "proceeds upon the idea that the essential characteristics of human nature are the same everywhere and in all ages. This has been found to be true; and accordingly, so far as history presents the qualities of human nature, it does teach by example." "But then," he adds, "the character of man so much varies from age to age, there is such a change of circumstances, so many more objects of desire and aversion arise, and so many new and powerful motives spring up, that unless history is so written as to reduce the examples of the past to elementary principles in human nature, freed from the influence of temporary conditions and applied to the impulses and relations arising from the actual state of things, those examples of the past will be no sure indication of what the conduct of men will be when times and circumstances shall change." His conclusion, therefore, was, that history is an example that may teach us the general principles of human nature, but does not instruct us greatly in its various possible developments.

Nor did Mr. Webster think history was properly and adequately written unless it was made to illustrate the general progress of society in knowledge and the arts, and the change of manners and pursuits. He criticised the



greatest masters of historical composition because, while they recite public transactions, they omit what belongs to the civil, social and domestic progress of men and nations. Up to the times of Livy and Sallust, we had no good history of Rome, affording any account of the manners and habits of the Romans in social and domestic life, nor of the progress of her citizens. The rebukes of Sallust and the satires of Juvenal are our best sources of information of the private pursuits and vices of the Roman people at the beginning of the empire. What we know of the manners and social life of the Greeks, also, we derived from a study of their theater.

This address of Mr. Webster served to draw public attention to the general plan then obtaining in our colleges of giving historical instruction, and it has had much to do with the radical change that has come over us in the last 30 years in putting the study of history upon its present basis, as well as putting it in the forefront of all our methods of intellectual culture.

Five years after the address was delivered, Professor Lieber, in 1857, was called to New York to teach history and politics as properly co-ordinate sciences in Columbia College—an advanced step which marks the first recognition by any American college of the necessary co-ordination of history and political science. "History is past politics and politics is present history"—a definition of the study which is to-day accepted as an American idea.

In 1876, what is now known as the historical seminary appeared, with the founding of Johns Hopkins University at Baltimore, and it was devoted strictly to the study of American history. This is a sort of laboratory of letters where books are treated like mineralogical specimens, passed about from hand to hand, examined and tasted.

The recognized American method of studying history in our colleges that keep abreast of the times is this seminary method, so called. Here nothing is taken for granted, but everything is studied, taken to pieces, analyzed and compared, classified and put together again. Hence we are getting practical results out of a study that was once utterly barren and useless. Scientific methods are applied to historical research. The principle of co-operation has been laid under contribution in the business of history writing. We have had a series of "Campaigns of the Civil War," the "American Statesmen Series," and the series on "American Commonwealths." A dozen or more different authors are represented in each of these series. We are here transferring to the production of historical works a tendency peculiarly American, the division of labor and the application to book-making of the habits of business management. We now have co-operative histories, large works, with chapters of historical narrative by our most learned and able historical scholars, each writing upon his own especial field, and these are coupled with critical essays upon the sources of information, these latter wrought out and elaborated in the historical seminary.

Professor Adams has this to say upon the application of economic principles to historical investigation: "Historical writing in America will follow the democratic and social drift of our times. The world is surely becoming more co-operative, if not less selfish; more constitutional, while still autocratic in corporate forms. By and by it will perhaps appear, that for one man to attempt to write a history of the world is to repeat the glorious folly of Alexander. On the other hand, to combine individual forces in the writing of history upon such co-operative and constitutional principles that individual rights are conserved while the general good is promoted, indicates progress in historical science worthy of these modern times."





I need not detain you further to speak of the uses of history and the advantages of historical researches.

"I teach American history not so much to make historians as to make citizens and good leaders for the state and nation," says Moses Coit Tyler.

In a government of the people and by the people, like our own, any culture that helps make the citizen helps also to build up and develop the state. Where every man is a voter this fact is of prime importance, and ought never to be lost sight of. With us public opinion is King, and the humblest man upon our streets does his share in making and in crowning this king. Ours is a government by discussion. We talk. We all discuss public men and public measures. A prime advantage of historical training among us at this time would be to dispel the popular fallacy that an act of congress is a cure for everything, and that the evils of a country can all be counteracted by the debates of one session of that body. We are coming to demand more and more paternalism in government. We want something to lean against in hard times, and somebody to loan us money in our reverses. We ask for sub-treasury schemes and all that, cheap money and an easy credit. Only those who can take a large view of the past can understand that that government is best which governs least and safest; which rests upon the will of a free and instructed democracy; and that the character and habits of a people are not greatly changed by the passing of innumerable laws by the Washington government.

History, too, would dispel the current idea that great social labor questions can be settled offhand by an eight-hour law, or that the apparent conflicts between labor and capital can be adjusted by state legislatures in a fifty-day session.

Professor Blackmar, of our own university, well sums up the uses of history, when he says it deals after all with man, the greatest study of mankind, and for which all scientific investigation is carried on. Here are the highest ideals of study, inculcating a deeper sympathy for all men and a greater interest in the fate of society. It deals with the certain and the uncertain, in the social organization as well as with the common and the uncommon, in the work-a-day politics of daily life. The truths in the historical sciences are as exact as the truths in the natural sciences, while they impart to the student a knowledge of the customs, the laws, the institutions and the life of any people, as well as their rights and their duties. They acquaint him with the institutions and methods of government, and so fit him for proper citizenship in a free country.

In a recent number of one of the foreign quarterlies, the question is raised as to who is the best-equipped man to write history, and the contention is, that the politician—the man who has had a first-hand acquaintance with public affairs—is to be the historian of the future. The professor of history—the teacher, pure and simple—is least of all fitted to decide the merits of men and their policies. He may correctly interpret what others write, but he himself cannot write what the masses will read and understand. His readers will only be professors and their pupils.

There is much truth in this contention. If, as we have already hinted, politics, in a large sense, means all that concerns the welfare of the state, history may well be defined as the politics of the past, just as politics may be called the history of the present; and if to write history is to describe the politics of past ages, it results that the politician, using the term as quite synonymous with the statesman, is by his training best fitted for this difficult



task. I know it is not easy to get the man of business and the man of affairs to teach history, by writing it in an adequate manner, so that men will read it and be profited thereby. But what infinite advantage he would enjoy over the mere literary man, the solitary thinker, the man who never faced a hostile party in congress, who never tried his hand in passing a tariff-reform bill or a measure for the free coinage of silver.

"Grant's Memoirs" are the best accounts we have to-day of the movement of our armies in the field. What a history could we have of the eighteenth century if Gladstone were to write it; or of the growth of Italian unity, if it could come from the pen of Signor Crispi; or of the rise of the German empire, if Bismarck were to be its author. The ex-chancellor's state papers are often historical essays, and when he was a diplomatist at Frankfort he is said to have based his actions on historical grounds. The great German has himself said that a "properly directed study of history is the essential foundation of all statesmanship: history alone can teach how much can be obtained in negotiation with other states; and the highest problem of diplomacy consists in recognizing the limits of the attainable."

Nor are examples wanting of men who have made history and written it too. Grote was a banker and a member of parliament; Gibbon and Clarendon were men of affairs. Macaulay—a politician and statesman—wrote a history of his native country that had the greatest sale in our land of any book ever published, save the Bible. Motley and Bancroft, Thiers and Guizot, were better writers of history for being men of affairs—having mixed much with politicians and having occupied themselves much with what is commonplace and conventional in life.

The mere arm-chair university man has too often assumed to pass sentence upon public men and public measures, simply because, at some time, he has digested a certain number of folios and quartos, or has published a series of papers on some of the lost arts or lost cities of antiquity.

Nor is the philosophical author, Mr. Buckle, for example, essentially superior as a historian to the mere man of letters. Too often men of this class are idealists, and so can hardly be reckoned ideal historians.

Mr. Lecky is generally regarded as the nearest approach to the political historian among the writers of our times. But his 5,000 pages on the events of one single century are quite too voluminous for the average general reader, though his work is a vast storehouse of political information.

The lesson of Kansas history is a plea for human freedom in the largest sense. The immediate work of this Society is to preserve that lesson for posterity. The present advanced position held by our state on all the moral questions of the day is the first fruits of that lesson. Richer fruits may reasonably be expected by our children's children. May our history in the future fully confirm to posterity all the lesson of the past, and so fully intrench in the public conscience of the state and of the nation that high esteem in which Kansas is held at this hour by our fellow countrymen, and which was so fittingly expressed recently by the leading newspapers of the Mississippi valley in these words: "Kansas can boast of a greater diffusion of popular education and a smaller percentage of illiteracy and crime than any other community on the face of the globe; and for all that pertains to a strong and vigorous state, the history of civil society furnishes no parallel."



## SCHOOL LANDS ON THE OSAGE RESERVATION.

An address delivered by Dr. PETER McVICAR, president of Washburn College, before the State Historical Society, at the annual meeting January 19, 1892. Doctor McVicar was state superintendent of public instruction at the time these lands were secured to the state. This paper contains many interesting facts not before made known to the general public.

Many years prior to the opening of the territory of Kansas for settlement, it had been the policy of the government, in treating with the Indian tribes in the more-settled sections of the country, to give the Indians the privilege of selecting for themselves reservations in the uninhabited portions of the West. As a result of this policy, a number of Indian tribes in quest of new homes, with fair hunting-grounds, and soil capable of producing maize with scarcely any labor, were induced to cross the Missouri and fix their abode in what became known as the Indian Territory, a portion of which is now Kansas, a land of genial climate and undulating surface, where the buffalo roamed in countless herds, and the deer, the wild turkey, the prairie-chicken and the quail were always within reach of the hunter's arrow. These immigrant Indians were given land carved out of the domain which the government had acquired by purchase from the Osage and the Kansas or Kaw tribes, who were the primitive occupants of all the Kansas region, there being still left large areas to the Osages and the Kaws.

Among the tribes thus transferred west of the Missouri were the Iowas, the Kickapoos, the Delawares, the Cherokees, the Pottawatomies, the Sacs and Foxes, the Ottawas, the Shawnees, the Wyandottes, and the Miamis. The reservation selected embraced the choicest portions of the territory, abounding in fertile valleys and timber lands, which the Indian, as if by instinct, always selected as the site for his wigwam.

On the opening of Kansas to settlement by white people, in May, 1854, a flood-tide of immigration poured in from the north and the south, on the one hand to make Kansas a free state, and the other to extend and perpetuate the domain of American slavery. Owing to this fierce political conflict, the territory became settled more rapidly than had ever been experienced before in the settlement of unoccupied lands on the frontiers of the West. On the admission of the state, in January, 1861, nearly every Indian reservation within the limits of Kansas was surrounded by white settlers. The necessity therefore arose for further negotiations with the Indian tribes, one by one, to induce them to exchange their reservations in Kansas for lands in the Indian territory. Gradually the Kansas reservations were alienated, and the Indians, tribe after tribe, receded to the south, beyond the boundaries of the state.

Among the last to part with their lands were the Osages. The area of the lands which they had reserved from their sale to the government far exceeded any other Indian reservation in Kansas. It extended 50 miles north and south, to the south line of the state, and from what is now the west line of Crawford and Cherokee counties about 260 miles to the west, embracing 1,300 square miles, or 9,320,000 acres.

In May, 1868, Col. N. G. Taylor was sent from Washington at the head of a commission to hold a council with the Osages, and if possible effect a treaty with the tribe, subject to approval by the president and ratification by the United States senate.

In the ceding of Indian reservations in Kansas, prior to 1868, no provision



had been incorporated by which the sixteenth and thirty-sixth sections should inure to the benefit of common schools, as provided for in the act of admission. The Delaware lands, between Lawrence and Leavenworth, one of the finest tracts in the state, was ceded to a railway corporation, and not an acre reserved for common schools. The Cherokee lands, comprising all of what now constitutes Crawford and Cherokee counties, was ceded to James F. Joy, then the president of the Kansas City, Fort Scott & Gulf railway, with no stipulation in the interest of common schools.

In view of these facts, the department of public instruction of the state determined to put forth every appropriate effort for securing, in these pending negotiations with the Osages, a recognition of the right of the state to the sixteenth and thirty-sixth sections for common-school purposes. The point was urged that Indian reservations, so soon as treated for by the government, became to all intents and purposes public lands, and subject to the statutes and laws of congress affecting public lands. Colonel Taylor, the commissioner from Washington, accompanied by William Sturgis, Esq., of Chicago, president of the Leavenworth, Lawrence & Galveston railway, and others, halted for a day or two at Humboldt, where the United States land-office was then located. At that point the state superintendent of public instruction held an interview with Colonel Taylor and also with Mr. Sturgis, in reference to the reservation of the sixteenth and thirty-sixth sections for the schools of the state, in case a treaty were effected. Both Colonel Taylor and Mr. Sturgis conceded the equity of such a claim, and expressed a readiness to grant it, and to so provide in the contemplated negotiations. The commission pushed on and encamped on the banks of Drum creek, about 65 miles southwest of Humboldt, and not far from where Independence is now located. Assured that the negotiations, whatever they might be, would conserve the interests of the common-schools of the state, the superintendent of public instruction visited Fort Scott and Osage Mission. In a few days he crossed over in his own conveyance, a distance of 50 or 60 miles, from Osage Mission to the place of the council. It was a beautiful spot, a grove of young and thrifty forest trees, with an outlook on a most fertile valley, forming an oasis of luxuriant grasses and wild prairie flowers. There were gathered the chiefs of the Osages, with a retinue of interested followers, Col. N. G. Taylor, William Sturgis, representing the railway company above named; the late Isaac S. Kalloch, the late Thomas Murphy, and other leading men, residents of Kansas. Day after day the interviews were held, and interests pro and con discussed, the white advocates claiming that two-thirds of the reservation on the western portion was virtually a desert, and the Indian chiefs expressing a willingness to accept the stipulated amount offered, provided the white man would leave for the Indian that two-thirds of "useless desert." While the discussions were going on, one thing was very patent, that the views of William Sturgis, Esq., were rapidly changing as to the right of the schools to any part of the Osage lands. In conversation with the superintendent of public instruction at the headquarters of the council, Mr. Sturgis naively remarked that he thought that Kansas had then more school lands than she knew what to do with. A treaty was finally effected. Over 8,000,000 acres were to be ceded to the Leavenworth, Lawrence & Galveston Railway Company at 18 cents per acre, and no lands reserved for schools.

No sooner were the people informed of the purport of the treaty, than indignation meetings were held in different parts of the state, to remonstrate with the United States senate and the president against the ratification of the treaty. The state officers held a special meeting, and requested the attorney-general of





the state, the late Col. George H. Hoyt, to proceed to Washington forthwith, and endeavor to prevent, if possible, the ratification of the treaty. A number of circular letters, in the form of remonstrances, were addressed to senators and representatives in congress, setting forth the obnoxious features of the treaty, in attempting to secure to one man, representing one railway company, nearly one-fourth the available soil of Kansas, and that for the pittance of 18 cents per acre, and on conditions simply of building 100 miles of road, at the rate of 20 miles a year, without a single acre reserved for the schools of the state, and with no recognition of the rights of the people to such an immense area of the public domain. To aid in defeating the ratification, the superintendent of public instruction also went to Washington. In an interview with a number of prominent gentlemen, Mr. Sturgis remarked: "The treaty would have gone through as slick as a pin if it were not for those confounded schoolmen in Kansas." Suffice it to say, that the ratification of the treaty was defeated.

Prior to the admission of Kansas into the union, the policy of the government in the extinguishment of Indian titles had been to purchase the Indian reservations outright. In that case, the reservations reverted directly to the government, and the law governing public lands obtained. But later, companies and combinations, by urging their measures day and night in the lobbies of congress, ostensibly on the plea of public interests, but really through motives of personal gain, managed to secure for themselves, and on their own terms, nearly all the Indian reservations and trust lands in Kansas, and in some of the other newer states. Only a few in congress, and those chiefly from the frontier West, were aware of the vast public interests thus alienated in executive session of the senate, and often by a simple vote of a mere quorum. The opposition to the ratification of the Osage treaty was the first note of alarm, and the facts involved needed only to be stated to incur a general condemnation.

On April 10, 1869, less than one year from that noted meeting in council at Drum creek, congress passed a joint resolution, of the nature of a law, opening the Osage lands to settlement, and provided "that the sixteenth and thirty-sixth sections in each township of said lands shall be reserved for state school purposes, in accordance with the provisions of the 'act of admission of the state of Kansas.'" Thus, after a long and severe conflict, nearly 8,000,000 acres were opened directly to the people for settlement, and 500,000 acres, or over \$2,000,000 were saved to the common-school fund of the state.

---

## SQUATTER COURTS IN KANSAS.

Read before the Kansas State Historical Society, at its annual meeting, January 17, 1893, by  
W. H. T. WAKEFIELD.

The idea of law in the American mind is not confined to statute-books or court records, but exists as an innate principle of justice, from which we derive our national capacity and aptitude for peaceable and orderly self-government.

When the present writer landed at Fort Leavenworth, on the 8th day of May, 1854, there were no lands in the territory open for settlement, the treaties for Indian lands not having been ratified until May 15 of that year. But there was no prohibition of "sooners" in Kansas; and though we found no settlers on either the Delaware or Shawnee purchases, yet we did find "foundations" of four logs, as the first course of a log house, with the name of the claimant written in pencil



on the blaze of a tree or a shingle stuck in the cleft of a stake near the foundation.

Some claims on the prairies were made and held by the stake and shingle alone; upon the shingle or blazed side of the stake being written in pencil the words: "I claim 160 acres, of which this is the center stake." There were no surveys begun in Kansas until 1856; hence, to locate a claim within a half mile of another one was looked upon as an intrusion.

During the months of June, July, and August, 1854, about 100 settlers from Missouri, Iowa, Illinois, Indiana and other states had located upon the Shawnee purchase, in what is now Douglas county, and the first party from New England, under the auspices of the Emigrant Aid Company, about 30 men, had pitched their tents upon Mount Oread. The newcomers found the land unoccupied, but not unclaimed; all the timber and good bottom lands along the Kansas and Wakarusa rivers and their tributaries having been claimed by non-residents whose whereabouts were unknown and whose existence even was often problematical. A few conflicts, not very serious to be sure, had occurred late in July or early in August of that year, and others of a more serious nature were thought to be impending. No territorial officers had yet been appointed; and we were without laws, or officers to enforce them. It had become the custom for each settler to lay claim to 160 acres of prairie and 40 acres of timber land; though there was no warrant in the United States pre-emption laws for holding more than 160 acres, and this must be in one contiguous tract. It was in reference to the timber claims that most conflicts occurred; or in cases where a new settler located too near the foundation or stakes of some unknown absentee, who afterwards turned up in the guise of a Missourian, mounted on a pony or mule, with gun across his saddle bow, revolver and knife in his belt, and a stern expression in his face, inquiring who had been so reckless as to compel him to fight for his right. Log-house raisings were about the only occasions of bringing people together; men often coming a distance of five or six miles to assist each other in putting up their houses.

About the 15th of August there was a house-raising for Frederick Roff, on the California road, four miles west of Lawrence, at which 8 or 10 settlers were present. Rumors of impending personal conflicts over claim contentions were discussed, and the necessity of some sort of a tribunal for adjusting such differences was agreed upon. A temporary organization was thereupon effected, with Judge John A. Wakefield as chairman, and Samuel N. Wood as secretary, and these officers were instructed to call a more general meeting, to be held on the 26th of the month, at the house of Brice W. Miller, on the California trail,  $1\frac{1}{2}$  miles due west of where Lawrence is now located. It was decided to pass the word quietly around among the actual settlers, so as to prevent the attendance of non-resident claimants. As a precautionary measure against complaints of lack of notice, or of the right of non-residents to claim a vote, the secretary was instructed to post several notices (one to be at Miller's Spring) only a day or two before the date of the meeting. As Colonel Wood then wrote a much more illegible hand than later in life, it is scarcely necessary to say that none were much the wiser for those notices.

But the secret of the proposed meeting was not well kept, and when the settlers, to the number of 50 or 60, assembled at the Miller spring on August 26, 1854, they found about 125 Missourians had arrived early in the morning and were in camp on the ground. They were a hard lot of border men—Santa Fe trail bullwhackers, Missouri river gamblers, plainsmen, and the like, led



by Milton and Allen McGhee; all armed to the teeth, and well supplied with the stimulating fluids which the law did not then prohibit, in even a Pickwickian sense.

The settlers, seeing themselves in a minority, agreed to consider it an adjourned session of the previous meeting at Roff's, so as to retain possession of the chairman and secretary; and it was so announced by Chairman Wakefield when he called the meeting to order. The Missourians claimed to be claim-holders in Kansas, and therefore entitled to vote in the meeting; but the chairman ruled that only actual and bona fide settlers, who could point to the smoke of their cabin chimneys, could be legal claim-holders or voters. This let loose a flood of lurid, pyrotechnic oratory by lawyers Dunham and Meek, of Westport; after which Allen McGhee, of Kansas City, Mo., shook his fist in the chairman's face, and with exaggerated tragic emphasis, hissing sibilants and rolling consonants said: "Bewar-r-r-r-re, old man, bewar-r-r-r-e, how you unchain the dogs of war and rouse the sleeping southern lion."

The Missourians ran to their vehicles and seized their guns, ranging themselves in line, while the free-state men fell in line facing them, but at great disadvantage in numbers and arms. At this critical moment the impending conflict, which might have changed the entire current of Kansas history, was averted in a most ludicrous manner. Encamped in her wagon at the spring was a widow Stinson from Atchison county, Mo., not fair, but fat and long past forty, who, seeing the melee, rushed to the center and stamping her foot vigorously said: "You men, put up them guns and behave yourselves, for this is my camp, and I shall allow no fighting here to-day. Do you hear me?"

A good natured and far from sober Missourian shouted, "Bully for you, old gal," and burst into loud laughter, which seemed contagious; and laughing men do not fight. A gentleman from New Orleans, whose name I cannot recall, now addressed the chair most ably, advising prudence, moderation, and compromise, when some one made a motion to adjourn, which was at once put and almost unanimously carried.

Before separating, the settlers agreed to hold another meeting about a mile further west, in one week. At this latter meeting the settlers were in a majority. Dunham and Meek were present again, and indulged in fierce border oratory, which was replied to by S. N. Wood in his most sarcastic vein. A compromise was agreed upon, by which J. A. Wakefield was chosen chief justice, S. N. Wood recorder, and Wm. H. R. Lykins marshal of the squatter court, Lykins being a southern man. It was agreed that the court should have jurisdiction of land claim contests, and of all crimes against persons and property. A jury of either 6 or 12 men, as agreed by the parties, was to judge of questions of fact. The marshal was to serve summons, subpoenas, and other papers, and enforce the verdicts of the court.

There were, perhaps, a dozen claim contests tried before such juries, a few by mutual agreement tried without juries; the judgment of the court being always strictly enforced and quietly submitted to. Two or three arrests were made for theft, resulting in the conviction of two persons, who were started to Fort Leavenworth for confinement; but both escaped on the road and left the country for a while.

In the autumn of 1855 justices and sheriffs were appointed under the bogus territorial laws; but they were not recognized by the settlers, and did no business. Samuel J. Jones, postmaster at Westport, Mo., was made sheriff of Douglas county, and Hugh Cameron, who still lives near Lawrence, justice of the peace. The only paper ever issued by Mr. Cameron was the warrant upon



which Jacob Branson was arrested by Sheriff Jones, which led to Branson's rescue by the citizens, and this was the only official act of Sheriff Jones. It is true he afterward attempted to make arrests in Lawrence, but was unsuccessful, and was shot and severely wounded by some person whose identity has never been made public.\*

From the spring and summer of 1854 to the establishment of a legitimate territorial government by the success of the free-state men and actual settlers in the elections of 1857 and 1858, the territory was practically without law and legal machinery, aside from the territorial judges and marshal appointed by the president; yet, aside from the invasions from Missouri, life and property has never been safer in Kansas than then. There were but few offenses by resident citizens, and these were promptly and impartially dealt with by the assembled citizens of the neighborhood, without calling upon the bogus officials.

U. S. Judges Sterling G. Cato and Rush Elmore were southern men, good lawyers, and usually just and impartial where the question of slavery was not involved; but the courts of that day lacked the decorum and dignity of the present. An incident may illustrate: While hunting, one cold day in the winter of 1855-'56, I saw a smoke from a cabin on Coon creek, near Lecompton, and went in to warm. The cabin was not inhabited by a family; but we found a fire, and before it were Judge Cato and bogus Sheriff Jones, playing poker—not entirely for fun. Jones said: "Will you hold court this afternoon, judge?" "I don't know," said Cato; "how much money have you got with you?" "About a hundred dollars," replied Jones. "Then there will be no session to-day," said Cato; "for at this rate I cannot win that hundred dollars in time to open court before 10 o'clock tomorrow." Judge Cato was an Alabamian, and always said "de Cote" for "the court," and sometimes ordered the sheriff to adjourn "de Cote" until it could get a drink, which it then proceeded to do from a saloon opposite the court-room. But Judge Cato was naturally a good-hearted and just man, who tried to administer the law honestly. Judge Elmore was less intemperate and a little more dignified, but in cases where the interests of slavery were concerned hardly so impartial and fair as Judge Cato.

---

## REMINISCENCES OF EARLY TIMES IN KANSAS.

A paper read at the annual meeting, January 17, 1895, by Mrs. LOIS H. WALKER, formerly Mrs. Geo. W. Brown.

It was in the month of December, 1855, that a horde of several hundred Missourians had invaded our territory and camped some two or three miles from Lawrence, near the Wakarusa river. They threw their pickets out around the city, so it was not safe for any free-state man to go outside: he was in danger of being shot down. One afternoon I stepped across the street to Mrs. S. N. Wood's. Soon General Lane came in, considerably excited, and said he did not know what we were going to do, as we had no ammunition, not even enough to make a show of defense. I answered him by saying my father had a keg of powder, and that I would go after it in the morning, if I had a buggy. It was then nearly night. I then turned to Mrs. Wood and asked her to go with me, which she consented to do. I then went home and made my arrangements to

---

\*J. P. Filler. See Spring's "Kansas," p. 110.





leave early the next morning. I arranged my large work-basket with a large medical book, and some knitting work. In the morning I went over to Mrs. Wood's prepared for the journey.

My father, Salem Gleason, then lived about 12 miles south of Lawrence, at a place called Mud Springs, on the Santa Fe road. I found at Mrs. Wood's Capt. J. E. Stewart, who lived about a mile on the other side of the Wakarusa, getting ready to go out home to bring in some ammunition buried there. It was brought into the territory by Maj. J. B. Abbott, with some Sharpe's rifles, for which he had raised funds in Boston, New York, and elsewhere. Captain Stewart had arranged to have some 12 or 14 mounted men go with him for a guard. He was also going to take out some provisions to his family. He was in what was then known as a "cracky wagon." General Lane coming up at the time, I told him it would not be necessary for Mrs. Wood and me to go now, as Captain Stewart could go on to father's and get the powder there. "No," he said, "you are going." Then he accosted Captain Stewart, and said: "By what authority do you take these men out of this place just at this time, when we are expecting an attack every hour? These women will bring in what we want safer than you can with all these men." Captain Stewart then stepped out and helped us in, giving me the lines. The guard accompanied us just to the edge of town, then turned back, lest they might be seen by the border ruffians from their camp.

We drove out to the bridge, then known as Blanton's bridge. After passing that a little over a mile on the other side, we saw two men or scouts watching us very closely. The halter coming down, I got out to put it up. They then turned off and paid no further attention to us. But a mile or two further on we met two men on foot. I turned to them and inquired how far it was to Mr. Burges'. He was father's pro-slavery neighbor from Missouri. After giving us the directions, we passed on, with nothing further worthy of note but the finding of an empty whisky flask, which we thought might be well to have filled with milk, as it might be made to serve a good purpose. We arrived at father's with nothing further. Mother soon prepared dinner for us, which we partook of with a relish. I then borrowed of mother two small pillow-slips, into one of which I emptied the small keg of powder, which I tied about myself under my outside dress. The day was cold, and we both put on extra dresses before starting. We then took leave of my parents and returned to Major Abbott's, where Capt. J. E. Stewart and Howard Dickson had taken the precaution to bury, on Major Abbott's farm, the ammunition in an old trunk, with the half of a large keg of powder. This was soon brought to light; and with the help of Mrs. Abbott we adjusted it about our persons, tying some of it around Mrs. Wood. The caps and cartridges, together with bullet-molds and gun-wipers, we put in our sleeves, pockets, and dress waists. The bars of lead we stood up in our stockings.

After all was arranged that we could dispose of, there were three packages we could not dispose of. These Howard Dickson took; he was going into Lawrence, driving a yoke of oxen to be used in throwing out breastworks in that city. We then started to get into the buggy, but found we could not make a raise into the seat. But Mrs. Abbott and the boy came to our assistance. We then drove back and crossed the Wakarusa, where we soon realized that my prediction were too true; that we should be closely watched. I said, "There, Mrs. Wood, they are coming." One of them rode up to the side of the buggy so that he could scrutinize it closely. He said, "Excuse me, ladies; we thought you were men, and we have orders to let no man pass this road to



Lawrence." I replied, "We have been out to Mr. Burges'." I drove very slowly, walking the horse only. The other man rode in back of us, dismounted, and stood with one foot in the stirrup ready to fire on us. But the man who came to the buggy, seeing nothing suspicious, as the bottle of milk and the work basket did not look very formidable to him, went back to his companion in the road. After a short consultation they rode back to the boy with the oxen, whom they stopped and searched, but did not find the ammunition; so he brought it in safely that evening. They then rode back to their camp, seemingly well satisfied.

To run away I knew was impossible. The only chance I saw was strategem. So I walked the horse slowly, with feigned indifference, until beyond their reach. We then quickened our pace and went in in a hurry. There we found the men anxiously awaiting our return. Cheer after cheer greeted us as we drove up. Here again we were unable to help ourselves out. So we were lifted out and helped into a room, where we soon divested ourselves of our precious burden.

'Twas then we learned that Thos. W. Barber had been shot down whilst attempting to go out to his house, some five or six miles from Lawrence. He was brought in and laid out in the Free-State hotel whilst we were gone. Owing to the excitement and fatigue of the journey, we could scarcely stand alone. But as soon as we were able we went over to the hotel to view the remains of him who was so full of life and hope on that bright and beautiful morning when we left to go for ammunition. The wind, which blew cold in the afternoon from the north, increased to a perfect gale before morning. It blew down the tents of the proslavery men, so they suffered severely; some of them even sought shelter from the people they came to pillage and murder. The next morning their better judgment prevailed; so they struck their tents and left.

[Written from memory by Mrs. Lois H. Walker, formerly Mrs. G. W. Brown, and read by the Secretary at the annual meeting, January 17, 1893.]

## THE "BOY'S" STORY: REMINISCENCES OF 1855.

By C. H. DICKSON.

Expanded from brief remarks made by the writer at the annual meeting of the Society, January 17, 1893.

I was the eldest son of Deacon Charles Dickson, who was well known to many early settlers of Kansas. I was born in Groton, Mass., August 10, 1839. On the 5th day of March, 1855, our little band of New Englanders, my father's family of six members, under the auspices of the Emigrant Aid Company, left Groton Junction (now known as Ayer) bound for the "Kansas Plains."

The air that March morning was crisp and frosty, the snow from two to three feet deep, and in many places in drifts of six feet. The sleigh-bells jingled merrily as we drove  $3\frac{1}{2}$  miles to take the train. Such is my farewell remembrance of my childhood's home. I have never revisited it.

We arrived at St. Louis on the afternoon of the 9th, where we were overtaken by a small Boston party under the charge of Rev. Charles Lovejoy. Our combined party, now numbering 45 souls, took passage on the "Kate Swinney" for Kansas City. Besides our emigrants and other passengers, there was on board a detachment of U. S. troops under command of a lieutenant, with a brass band.

As that was the first trip the boat had made up the river, and the stream was full of snags and sand-bars, we tied up to the bank every night, and were eight days making the trip to Kansas City, arriving there on the 17th. Notwith-



standing the length of time consumed, what with music and dancing, singing and games, abundance to eat and drink, probably no merrier party ever sailed up the "Big Muddy."

After disembarking, we all filed up to a small brick hotel at the upper end of the levee. It appeared to be the only hotel in the city, and was kept by Col. S. W. Eldridge, who afterwards for many years kept the "Eldridge House" in Lawrence. We had now reached the end of our journey by *public conveyance*, but were still nearly 50 miles from our destination.

Besides the few dwelling-houses and other structures scattered about the hills, the *city* consisted of a few two-story brick business houses built on one side of a street running along the river bank, and called the "Levee." But in order to get room upon which to build, they had first to cut down the side of the bluff and haul it away; so that the back walls of two-story buildings were of much less height than were the sides of the bluff against which they abutted. In fact, as we boys ran along upon the top of the bluff, we could easily have thrown stones down into the tallest chimneys in the city. Such was the commencement of the present metropolis of the West, since built up by the trade of Kansas. It should be owned and taxed by Kansas. Sunday, the 19th, was spent by our party, as far as practicable, in the good old Puritan style to which we had been accustomed.

Monday morning everything was stir and bustle in preparation for our overland trip to Lawrence, but it was 2 o'clock p. m. before we finally got started. As we were about ready to leave the hotel, a man entered whom I at once took to be a full-blooded Indian, although I had never seen one. He was straight and rather tall, with prominent cheek-bones, and much darker skin than any white man I had ever seen. Imagine my surprise when several men in our party, including my own father, greeted him with great cordiality as if meeting an old friend. It was John Haskell, father of John G. and Hon. Dudley C. Haskell. He had just come down from Lawrence, where he had spent the winter, and had acquired a good mahogany color through the action of the Kansas zephyrs. He was the first person from Kansas we had met since leaving home, and had much interesting news to tell us. At 2 o'clock 32 of our party, with three teams and wagons, which had been bought and fitted out, and with such bedding, clothing and provisions as were necessary for the trip, started for Lawrence.

The weather, which had been pleasant in the morning, had been gradually changing for the worse. The sun was clouded in, the wind was getting quite chilly. A part of the men and boys had to walk, and as we commenced to wind our way up a long, crooked ravine, over stumps and stones, hills and ditches, to get out of the city, I began for the first time to feel very homesick, and to think that "going to Kansas" wasn't very funny after all. We drove out that night as far as the Shawnee Baptist Mission, just over the line into Kansas. Doctor Barker and family gave us a cordial reception, and entertained us the best they could. During the night eight inches of snow fell: but the sun rose clear and bright next morning. That day we traveled to Rev. Paschal Fish's place, near where the town of Eudora now is. The dwelling of Mr. Fish, who was an educated and wealthy Shawnee Indian, was a double log house, each room perhaps 16 feet square. He at first hesitated about taking in so large a party, but as both men and teams were very tired from dragging through the melting snow all day, and the night was getting cold, he at length agreed to take us in if we would be satisfied to occupy one of his rooms while his family occupied the other, and cooked for us our supper and breakfast.

That night was one I shall never forget. The room assigned to us had a



large open fireplace, one bed, and perhaps a half-dozen chairs. Think of 32 people, men, women and children together, sleeping in that space of 16 by 16 feet. Well we did, somehow, using the bedding from our wagons. First we had supper. Our hostess had to set table four or five times, for so many. As I was one of the boys, it was late bedtime before my supper was over, and when I went to the sleeping room I found all the party but one (and he sat up in a rocking chair by the fire all night) spread out on the floor bed, many of them "sawing gourds" at a lively rate. On looking for bedding, I found that one buffalo robe was all that was left me; so, wrapping it around me, I managed with some difficulty to wedge myself into a small crevice in the prostrate mass of humanity, near the fire, getting several sleepy growls for disturbing the slumberers. When I woke in the morning I found that I had made use of a young lady's feet for my pillow; and although I presume it was not very agreeable to her, she did n't kick hard enough to keep me awake. She afterwards became the wife of one of the principal merchants of Lawrence.

The next day about noon, being the 21st of March, we entered the "Historic City," amid cheers and shouts and hearty hand-shaking; for we were the first wave of the mighty tide of immigration which was to inflow during that year, 1855, and the coming of which had been eagerly looked for by the hardy band of pioneers who had come in the fall before, had wintered here in their tents and sod houses, and who already had had a foretaste of the mighty struggle that was to be waged with the minions of slavery for the possession of Kansas soil.

My father's family found shelter in one room of Rev. S. Y. Lum's house, Mr. Lum's family occupying the other. Mr. Lum was one of the most prominent men in the city, and was the first pastor of the first church organized in Kansas (excepting of course the missions established among the Indians), and my father was one of the first deacons of the same, the Plymouth Congregational church, at Lawrence.

On the morning of the 22d, in company with a young man of our party by the name of Kies, I started back to Kansas City to bring up some of our household goods. Mr. Kies had a fine matched team of horses, splendid travelers, while I had one mule and one horse. The horse was a large, rawboned, fractious animal, ready to balk at the slightest provocation, while the mule, a little Mexican, was I think the slowest animal I ever drove, and had no idea what a whip was made for. Saturday night found us safely back in Lawrence, without accident or incident, save one, the meeting with, as we were approaching Shawneetown on our return trip, a band of Kaw Indians, the first "wild" Indians I had ever seen. They were dressed in their usual costume, their heads shaved and painted red, feathers in their scalp-locks, and to me looked perfectly hideous, calling to mind all the horrible "Indian stories" I had ever read. But, much to my relief, they proved to be friendly Indians, though great beggars.

The next day being Sunday, Miss Anna Tappan, now Mrs. O. A. Hanscom, of Lawrence, who was living with Mr. Lum's family, invited me to attend Sunday-school with her. Having always been a Sunday-school boy, I readily accepted the invitation. As we walked along Massachusetts street toward the river, I inquired where the church was, to which my partner replied, "Wait and see." Presently we came to a little shabby-looking building, not more than 10 feet square I am sure, built of very rough native lumber, and no battens over the cracks, with the words, "Lumber Yard," over the door, which stood open. Simply saying, "Here it is," Miss Tappan led the way into the "Sunday-school,"





which had already assembled and was seated on rough boards laid on nail-kegs, while S. N. Simpson, the superintendent, and proprietor of the lumber-yard, was just reading the opening hymn. To say that I was surprised but feebly expresses my feelings. The contrast between that and the Sunday-school I had been used to and had left but three weeks before was too great for my mind to grasp all at once. But the songs were sung with just as much zeal, if with less volume; the prayers were offered with as much earnestness and fervor, and the lessons discussed with as much apparent interest, as I had been used to elsewhere. I left that little pioneer Sunday-school with a much more homelike and contented feeling than I entered it. I had learned a lesson not taught from the books. My Sunday-school experience is but a fair example of the wonderful and indescribable change and contrast met in every phase of life by the eastern people who first settled in Kansas.

Wednesday, March 28, the mercury registered 100 in the shade; only eight days after a heavy snow-storm and severe cold weather. Just think what a change! The winter had been so mild that the crocuses were in bloom on the 14th of February, as vouched for by Mrs. Lum.

March 30, 1855, is one of the historic days of Kansas. On that day proslavery men from Missouri and other southern states marched into the territory in large bodies, took possession of all the polls, elected what became known as the "Border-Ruffian Legislature"; and on the following day returned whence they came. About 1,000 of them came to Lawrence, and had everything their own way, for one day at least. Of course their presence caused intense excitement among the citizens of the town. The day passed, however, without serious difficulty, although far from being a quiet or peaceful one. As night came on, and drunkenness, which had begun early, increased, there was a general apprehension that the invaders would destroy the town before morning. All the able-bodied men were called out for defense. As the carousal was kept up, the night was made hideous with drunken howls. I think there were very few sound sleepers in Lawrence that night. I remember lying on the floor with my clothes on, and a hatchet and butcher knife by my side, ready to "die in the last ditch" if attacked. But, although the "other fellows" outnumbered us probably three or more to one, and made a big noise, I have an idea that they did n't want to die any worse than we did, and that they had a suspicion of the desperation with which men would fight in defense of their homes and families. At all events, when morning came they began to hitch up and pull out, and soon the last one had disappeared on the eastern horizon. It seemed, after they once started, that each one was anxious not to be the hindermost, lest a righteous retribution should befall them.

After two or three hot days in March, the weather became cold, windy, dry, and dusty, and remained so through April and up to about the 10th of May. As scarcely any rain had fallen since the preceding August, the settlers became very much discouraged, and began to think that Kansas was still a desert in fact. While a heavy tide of immigration had set in, the ebb tide seemed almost as great, and some days even greater. The road from Lawrence to Kansas City seemed to be lined with people traveling both ways. Many would arrive at Lawrence at night and depart disgusted in the morning, while others would turn back at Kansas City, or along the road between the two points. There was no grass for our stock, water was very scarce, everything we had to eat had to be brought from Missouri, and, on



account of the extraordinary demand, was very high. It began to look as if we would have to abandon Kansas.

My father concluded to leave mother and the three younger children in Lawrence for the summer, while he and I would "bach it" in a tent on his claim, which lay six miles due south from Lawrence, and commence to convert the raw prairie into a cultivated farm. This plan was carried out with experiences interesting to me to recall. One or the other of us would usually go to town about twice a week to look after the wants of the family and get supplies. On the morning of the 14th of May, father yoked up his team and started to town for a box of fruit-trees, which he had shipped by way of Lawrence, leaving me to stay alone, with mind free to note the events of the day.

The sun rose that morning fiery hot. The air was sultry, and low down on the horizon in the west there seemed to be a dark bank of smoke or clouds, I could hardly tell which. I went to work as usual. Gradually, as the forenoon passed, the dark cloud assumed definite shape. Thunder heads loomed up and an occasional flash of lightning appeared. The air at length became stifling. An indefinable feeling of fear began to creep over me. A like feeling seemed to affect the single cow, tied near our tent. Instead of feeding quietly as usual, the animal kept circling round and round at the end of her lariat, moaning continually. About 1 o'clock the storm broke loose, coming on with a terrible roar. As the head wind struck my tent, the north guy rope broke like a pipe-stem. I became enveloped in dripping canvas. The rain fell in torrents. As we had not ditched around the tent, the water soon began to run like a river over and through our camp. Fortunately we were pitched on a hillside, so that the water ran out as fast as it ran in. After the head wind had passed, I managed to raise the ridge pole of the tent so as to afford some shelter. For nearly three hours the lightning seemed to be one continuous flash; the electricity frequently playing around over some tools and chains that lay in the tent beside me. The thunder was terrific and almost deafening, while the wind continued to roar and rain to pour incessantly. Doubtless the horror of all this, in my youth and inexperience, was much magnified in my mind. An hour after the storm abated the sun was shining, and I was standing on the bank of the Wakarusa, anxiously looking across the prairie for my father. The creek, which in the morning was dry on the riffles, was now bank full, or 14 feet deep.

I had not long to wait, for the absent one soon appeared on the opposite bank, accompanied by a neighbor, with whom he had found shelter during the storm. But how to cross the torrent was the question. The bridge, which N. B. Blanton had been at work on for some time, was not more than half built, and there was no other on that stream. Father was very anxious to get his fruit-trees set out; and, being an unusually expert swimmer, he thought if he could get a rope across he could float the box over. So, procuring a long coil of quarter-inch cord, and making one end fast to the box lying on the bank, he plunged into the stream with the other end of the cord in his hand. The force of the current carried him down stream rapidly, but he held on to the rope until about two-thirds across when the force of the water upon it became too great, and he was forced to loose his hold, reaching my side of the stream much out of breath. Disappointed but not discouraged, he determined to try it over. But a second and third trial ended in failure, and he was obliged to give up the effort after having swam across the stream five times. Upon getting our box home a day or two later, we found the trees all dead. They had been too long on the road.

That rain put a new face on everything. Grass sprang up as if by magic. Everybody became not only hopeful but enthusiastic, and both town and country



were booming. The agitation from the pro-slavery election invasion had subsided, free-state immigrants came pouring in from Iowa, Illinois, Indiana, Ohio, and other central western as well as from the eastern states; and the greater part of them stayed. Nature seemed to be doing her utmost. Rain continued to come in abundance through the months of June, July, August, and the fore part of September. The grass made the largest growth I have ever seen in Kansas. This season (1855) seems to me to have been nearer like that of 1855 than any other since the settlement.

But man did not prove to be as kind as nature had been. As the summer waned, and the slave power realized that the free-state men were settling up the territory much more rapidly than they, they began to get ugly toward us when we went to Missouri for supplies. Later on they began to come over in armed bodies and camp along the streams, interviewing the settlers, and threateningly informing them that they were intruders. Sometimes from these camps they would send out parties to harass the settlers, in some instances committing robbery and murder; but never showing fight when met by force equal to their own.

As the border ruffians became more and more aggressive, the free-state settlers in our part of the territory found it necessary to establish and maintain regular military organizations, enrolling everybody large enough to load and fire a gun, regardless of age; requiring all to meet for drill at regular periods, and to hold themselves in readiness at all times, day or night, to respond to calls to arms from their commanding officers. While the ruffians committed many depredations throughout the territory, especially along the border, yet Lawrence was the point against which they made the most direct threats and demonstrations. Lawrence, therefore, became the rallying point, and eventually the fortified stronghold of the free-state men. As the autumn of 1855 approached, the war-clouds grew rapidly darker and more threatening. The farmers were kept in camp much of the time, and when allowed to disband and go home they wore their side-arms, and at all times kept their rifles within convenient reaching distance. Strangers were looked upon with suspicion, and every one was on the alert. If a man left home and was gone a little longer than was expected, his family became uneasy and suspected foul play.

Realizing the need of more long-range and rapid-firing guns and artillery, Major James B. Abbott, early in the summer, went east to solicit funds to purchase such munitions. In this he was quite successful. He shipped on quite a quantity of Sharpe's rifles, together with a lot of ammunition and a 12-pound mountain howitzer. The most of the rifles were distributed among the free-state militia, but the major kept the bulk of the ammunition under his own control until it should be needed. Of the disposition of it I will speak later on.

As I was plowing in the field one day for a pro-slavery neighbor named Sebastian, on the north side of the Wakarusa, and about a quarter of a mile east of Blanton's bridge, five mounted men rode past me, riding leisurely along until they reached the bridge, and disappeared on the other side. Soon I heard a gun shot, and almost instantly the five reappeared, riding as hard as their horses could run, until they had passed me a short distance, where they met a band of 27 armed men on foot. There they halted for a few minutes, apparently in consultation, when the horsemen went on to the east, while the footmen marched on past me, within a stone's throw, disappearing across the bridge and passing down the south side of the creek, back to their camp below Franklin, a town on the Wakarusa, southeast of Lawrence.

As I returned home that evening, passing over the same bridge, I found that a neighbor boy named John Jones, about 20 years of age, who lived with a wid-



owed mother alone on a claim one mile east of father's, had been shot down in cold blood by the ruffians who first passed me, and was dying in the most intense agony, having been shot through the bowels. He was returning from town, carrying a sack of meal on horseback, when overtaken by the five men. So long as he kept his revolver they did not dare attack him, although threatening loudly; but as soon as he gave it to Mr. Blanton, in compliance with their promise to let him pass on unmolested if he would do so, they fired the cowardly shot that took his young life, and left his widowed mother alone in the world.\* That was a fair sample of the work done by the border ruffians during 1855 and 1856.

Much may have been written about the "border-ruffian war" that was overdrawn or untrue; but, on the other hand, I believe much of the truth has never been told and never will be, for the reason that many men came or started here alone and unknown, and as no one knew them, no one missed them if they were waylaid and murdered. True, eastern friends, if they had any, might after a time miss them, but in the chaotic condition of society here it was not an easy matter to trace up and find a stranger.

After my experience in the tent during the storm of May 14, I did not like to stay there alone of nights, if there was any appearance of a storm (most of our storms came at night that summer), and so I got in the habit of going to Major Abbott's when father was away. They lived in a little box house of one room one mile north of us. While the major was gone east his wife and little child were left alone most of the time, and as father was gone a good deal too, as a matter of mutual accommodation I spent the most of my nights there, and the habit was kept up after the major's return, for a long time. And so it came about that, on the night of the "Branson rescue," which took place at Major Abbott's place, and with which all readers of Kansas history are familiar, I happened to be there and to be a participant in the events that transpired at that time. I have, I believe, the distinguished honor, or dishonor, just as you like, of being the only one there who did not have to "hide out" for awhile to avoid arrest by the United States marshal for resisting an officer of the government. I always attributed my exemption to the fact that I was considered too small to be worthy of notice.

At the time of the "Branson rescue," Sheriff Jones threatened to return before morning with 300 men and wipe us out, if we refused to return Mr. Branson and allow him (Sheriff Jones) to proceed unmolested. While that was considered "mere bluff," we knew it was possible that he might return, as we knew there was a large pro-slavery camp below Franklin. It was deemed prudent to remove Branson to Lawrence that night. While Jones did not return as threatened, it soon became evident that the pro-slavery men were terribly enraged at this act of "open rebellion," and held the entire free-state party responsible for it. Although the rescue had been conceived and executed by a mere handful of men, without consulting anybody but themselves, yet the act was generally approved and defended, thereby making it the act of the whole free-state body. Both sides began gathering and concentrating their forces and preparing for conflict. Meantime Major Abbott having disappeared, as well as all the others engaged in the Branson rescue, excepting myself, I became uneasy about the ammunition stored in the major's house, lest it should fall into the hands of the enemy.

About this time, Capt. John E. Stewart, a neighbor living on what is now the Douglas county poor-farm, called one evening to see how Mrs. Abbott was getting

---

\*The bullet which killed young Jones, extracted by Dr. S. B. Prentiss, of Lawrence, who attended the dying victim, is among the relics in the museum of the State Historical Society.





along. I spoke to him about the ammunition, and asked him what had best be done about it. After considering and rejecting a number of plans, we finally concluded to bury it for a time in a small field some 40 rods from the house. This plan we put in execution that night. We put it all into a large trunk, dug a hole, put the trunk in with plenty of hay around it for dryness, and then covered the whole with earth, as far as possible removing all traces of our work. This was done in the dark, no one but Captain Stewart and myself knowing of the place.

The call to arms had been responded to promptly, not only by the free-state men near Lawrence, but by those of Topeka, Burlingame, Prairie City, Osawatomie, and other points in the territory, until our army numbered about 800 men. All were at once put to work building blockhouses, throwing up breastworks at street-crossings, and also building a fort on Mount Oread.

Meantime, the governor of the territory, Gov. Wilson Shannon, was doing what he could by proclamations to assist the pro-slavery men in raising an army to "put down the rebellion." It was not long before they had gathered forces of 2,000 or 3,000 in their camps near Franklin and Leecompton. An attack was expected at any moment, either night or day, and the air was full of exciting rumors continually.

But day after day passed and no attack was made. The time was improved in multiplying and strengthening the defense of the city. It was during this period that I was eye-witness to an incident that I have never seen referred to in print, but which I think ought to be recorded for two reasons: First, because it will give the present and future generations a clearer insight of the unrecorded difficulties and dangers of that time; and second, because it displayed the rare tact and marvelous magnetic power of a man who, later on, succeeded in making himself what no other man ever did, the central figure around which for years, the entire political system of Kansas revolved. I refer, of course, to Gen. James H. Lane.

Although at first our men had come quickly to the rescue, and would doubtless have fought bravely had they then been attacked, there had, from various causes, been developing a spirit of discontent in our ranks, which, if allowed to materialize, might have wrought more serious disaster to our cause than an attack from the enemy. The most serious cause of discontent was the fact that the families of very many of the men were left to shift for themselves in their uncomfortable little cabin homes scattered over the prairies, lacking often the barest necessities of life, entirely unprepared for winter and unprotected from attack should the ruffians see fit to molest them. The condition was a serious one and well calculated to make men restless. Many could not even hear from their families.

The incident to which I refer, and of which I was a witness, was in this wise: A detail of men were at work on one of the earthworks on Massachusetts street. General Lane came around, in a quiet and unostentatious way, to inspect the work. He made some little suggestions about it, to which some one replied in a gruff voice: "We all had better be at home fixing up for winter, than fooling our time away here." To this remark the general made some good-natured and smiling reply.

Instantly the smoldering fire of discontent seemed to burst into a flame, and several men spoke up at once, all taking the same view the first man had. With the instinct of a born leader, Lane took in the situation and recognized its gravity. Instead of remaining on a level with the men and wrangling or arguing with them, where he would most certainly have been out-talked, he sprang upon



the embankment and commenced making a speech. By this shrewd move he obtained "the floor," and silenced his opponents. He commenced in a low, smooth tone, calculated to sooth and not ruffle the feelings of the discontented men. In a few minutes the street was full of men, who had come on a run to hear the news, thinking some fresh word had been received regarding the movements of the enemy. As the audience grew, the fervor of the speaker arose. He comprehended the magnitude of the occasion. The army must be held together; the words he must now utter must accomplish that end. He became afire with eloquence. Off went his large, circular military cloak, next his hat, soon his coat, as he saw his appeal was telling; then his vest followed. The general, as well as his hearers, was indeed getting warmed up; and his necktie was soon lying with his other clothing on the ground, his shirt was unbuttoned down the front, while shouts and cheers of applause went up from the men.

Next his shirt-sleeves were unbuttoned and rolled above his elbows, and as he paced, like some wild animal, rapidly back and forth on the embankment, with the perspiration standing in great beads upon his face, notwithstanding it was a sharp December day, he poured forth a stream of eloquence, the like of which I have never heard, although I am now an old man and have listened to many of America's most-noted orators. The men by this time were in a perfect frenzy; yelling and cheering, jumping about, shaking hands, slapping one another on the back, and acting in a ridiculous manner generally. But General Lane knew, as he came down from his perch and put on his discarded clothing, that he had won an important, although bloodless victory. I verily believe, if he had asked that body of men to follow him through fire and blood knee deep into the very heart of Missouri, not one would have refused.

But I imagine I hear some one say, after reading this sketch, "What a fool Lane was. Why didn't he arrest and punish those men for insubordination instead of making a speech?" Hold on, my friend; not so fast! James H. Lane at that time was only general by sufferance of the free-state people of Kansas. He held no commission from any recognized authority, either territorial or national. He was in law a rebel, and the active leader of an army of insurgents. Had we failed in resisting that siege of Lawrence, Lane would have suffered the fate of a traitor. Had our little army been allowed to disintegrate at that time, instead of "hanging together," we might, not a few of us, have been "hung separately."

Along about the middle of December, it was discovered that, although very strongly fortified and much better armed than the enemy, we had but very little ammunition. We were in a practical state of siege, the enemy guarding all the roads approaching the city. Why this condition of things existed I do not know; except that Kansas was an isolated region, and actual war had not been apprehended.

According to the statement made by Mrs. Brown, read at this annual meeting, and corroborated by Mrs. Wood, it would seem that General Lane, up to this time, did not know of the existence of the ammunition which Captain Stewart and I had buried. If that be true, Captain Stewart had certainly guarded our secret too well; and that it was true is indicated by the fact that he had arranged to take a squad of men and go for the ammunition himself without consulting his commanding officer, General Lane. But as Captain Stewart was forbidden to leave the city with his escort at that critical time, there was but one alternative, if the ammunition was to be secured, and that was, that "the boy" who had helped Captain Stewart to bury the ammunition



must go and dig it up for the brave ladies who had volunteered to go out and get it.

While I was regularly enrolled in Co. E, third regiment, and required to report for drill at stated periods, I was employed as a kind of errand boy; and being sent out to our claim every few days to look after the stock, it was my duty also to make the circuit of the neighborhood, and look after the wants of the neighboring families. I walked out and back; and as I had never been molested, when Captain Stewart called on me and asked me if I was willing to go out and dig up the ammunition we had buried for some women to bring in, I did not hesitate to do it.

When my father found I was going, he told me to drive in a yoke of our oxen, to be used in plowing about the fortifications being thrown up. I went out as usual, afoot and alone, seeing nothing to excite alarm. I found the oxen, yoked them up, and returned as far as Major Abbott's place. Here I got my dinner, and then, with Mrs. Abbott's help, proceeded to dig up the ammunition and bring it to the house, watching to be sure we were not observed. In this we had no trouble, except the hard work, for the trunk was heavy and did not come out of the hole as easily as it went in.

Soon Mrs. Brown and Mrs. Wood returned from Mrs. Gleason's, and, after warming and resting a little while, they proceeded, with the help of Mrs. Abbott and "the boy," to load up. There was powder, lead in bars, bullet-molds, cartridge sticks on which to wind the cartridges (that was before the day of "fixed ammunition," gunwipers and primers—in tape form, 50 in a roll—not very agreeable baggage to have stowed around one's person. But it was piled on until the ladies could find no room for another bit. With their loads they could scarcely walk, and could not get into their wagon without help. There were still three packages left which I promised to take. Had I been wise I would have had the ladies take those three packages and leave some other things of far less importance. Each one of those small packages contained 1,000 primers, without which the powder and lead would be of little use. Those primers (or percussion caps) were the "key-stone" to the arch, so to speak, and should have gone by the safest conveyance.

Bidding us good-by, the two ladies started out for Lawrence, five miles away. How they got through and the reception they met they have told the world in their own graphic language.

With a farewell to Mrs. Abbott, as brave and kind a woman as ever lived and a worthy companion to the gallant major, I followed, driving the oxen before me. As I was to pass out of sight, a quarter of a mile or more from the house, on looking back I saw her still watching me, as though uneasy about me, while on my part, having no fear for myself, a feeling of sadness came over me as I thought of her and her little child, left alone both night and day in discomfort and danger, fear and uncertainty. Among the hundreds of similar cases, hers was one of the saddest, for her husband was a special object of hatred to the pro-slavery men, for he had taken a leading and conspicuous part in many ways. He had procured in the East many of the Sharpe's rifles with which the men in Lawrence were armed, and the 12-pound howitzer, which had just arrived. He had drilled, as well as armed, companies of men, and he had been a leader in the "Branson rescue." He was liable to be killed at any time, whenever a border ruffian could waylay him.

- Crossing the Wakarusa at Blanton's bridge, I soon passed out through the narrow skirt of timber on the north bank into an open bottom prairie about 1½ miles wide. Before leaving the timber, I took a look in every direction for pos-



sible signs of danger. Excepting the ladies in advance of me, I could see no one as far as the eye could reach. Being now sure of a clear coast, I pushed on as fast as I could make the oxen travel. But it is the unexpected that often happens. Those oxen were the direct cause of getting me into trouble that day. Had it not been for them I could have easily crept into the high grass at the first sign of danger and made my way into town without being seen by the enemy. But now I could be seen as far away as a man on horseback. After getting about half a mile from the timber, I saw two horsemen riding rapidly from a point about a mile east to intercept Mrs. Wood and Mrs. Brown. Knowing my turn would come next, my first thought was to retreat to the timber, but as I turned back I saw three other men riding up the creek along the edge of the timber towards me. Escape was impossible. What was to be done? Had the question been put to me five minutes earlier I should have had no answer. But like a flash of inspiration came the thought, "play the role of a simple." The two men were now interviewing the women a mile ahead of me, while the three were a little further away in another direction. Hastily secreting my three packages of primers about my person, when, a few minutes later, five heavily-armed men closed in on their "quarry," all they found was a small boy, jabbering and playing carelessly along the road, enveloped in a cloud of dust created by scuffling feet along the dusty road. With a gruff order to halt and the muzzle of their guns looking me in the face, they commenced a rapid fire of questions, as to where I came from, where I was going, what I was going for, what I knew about Lawrence and "Jim Lane," and a whole volume of "leading" questions.

As I glanced up at first and recognized in one of the men one of the most desperate characters on the border, whose brother was contesting for a claim within a mile of where we were standing, my nerve came near failing me. But as the glance assured me that I was not recognized, my heart dropped back to place, and "Richard was himself again." How long they held me there, whether five minutes or half an hour, I cannot say, as I was not counting time, and my answers in detail I do not propose to give. Suffice it to say that the answers were sufficiently foolish to convince the interviewers that I did n't know anything, and was a harmless and useless piece of humanity. After talking about taking me to their camp and taking the oxen for beef, the scouts let me go, cattle and all, without having discovered anything "contraband of war," but advising me to keep away from Lawrence. They said I was liable to get hurt if I did n't, as there was going to be a big fight there very soon. Had they had the faintest suspicion of what I actually knew about the situation in Lawrence they would have put me to torture in some form, until they had forced me to tell it.

After being permitted to move on I sauntered along very leisurely, as if not caring whether I ever got anywhere, until the men had entirely disappeared in the direction whence they came, and then I made fast time until I reached the city, where I was received as one risen from the dead, one who had brought a blessing with him from the spirit land. The ladies who had preceded me had reported me captured and doubtless killed outright, or at the best taken to their camp, whence I could never return. As I demurely followed my oxen through the main street, being discovered, the air rang and reechoed with shouts and cheers, while I was overwhelmed with a deluge of questions as to how I escaped. But on that subject I was not communicative. Passing quietly on, I went immediately to "headquarters" and delivered my three precious packages safe and sound. This caused surprise and joy—surprise that I had passed the border-ruffian pickets with such valuable material for "the rebels," and joy in the assurance that now we were prepared to make a stubborn and effective fight. I





went directly home to *mother*, where I was received with great joy; for after the arrival of Mrs. Wood and Mrs. Brown, the news of my capture had become immediately known.

And now my story is told, for history has already recorded how, by a rare stroke of diplomacy, Governor Shannon was induced to visit Lawrence; how he was "dined and wined"; how by means of certain peculiarly mellowing influences he was induced to commission Charles Robinson and James H. Lane as officers of the "Kansas territorial militia," with authority to organize and equip the same, thereby with a stroke of the pen transforming our whole force from a band of insurrectionists or rebels, into lawful citizens; how, as a direct result of that maneuver, the border-ruffian forces were disbanded, and returned whence they came; how at last the brave boys in Lawrence were permitted to return to their long-neglected families, in their little cabin homes scattered over the bleak Kansas prairies; and the angel of peace settled down over the besieged city for the winter, and until grass had grown in the spring, when the conflict broke out fiercer than ever.

Since that eventful period which I have been attempting to portray by selecting a few typical cases that came within my personal knowledge, 40 years have passed. The old landmarks are rapidly fading and disappearing. Soon none of the active participants in those scenes will be left to tell the tale. Of our party of 45, I only know of one besides myself still living in Kansas. That one is Ira Brown, of Lawrence.

Since I commenced writing this paper, I have cut the following items from a newspaper dated October 17, 1895, telling the fate of two prominent characters of Kansas in 1855. Baldwin's Ferry was an institution that for some years everybody had to patronize, since it was the only means of crossing the Kansas river at Lawrence or for many miles either above or below. As the miller's rule was adopted, "first come first served," I have frequently had to remain in line with my team for hours waiting my turn to be set across the "raging Kaw."

Rev. S. Y. Lum was one of the few to bring his family and all his worldly possessions to Kansas in the fall of 1854, to establish a home in the wilderness. He was a gentleman of culture and refinement, a strong man physically, mentally, and morally; genial, clear-headed, and courageous, active, energetic, and alert; as ready to shoulder his gun and fall into line in defense of the principles of freedom when endangered as to preach them from the pulpit. With such a character he easily took front rank, and no man stood higher in the estimation of the Kansas pioneers at the time of this story's commencement than he. After a long life spent in preaching the gospel of liberty and peace, he has met a violent death on foreign soil. Here are the slips referred to:

"Lyndon Journal, October 17, 1895: Mary A. Baldwin, 76 years old, who settled in Lawrence in 1855, died in Denver September 29, leaving 10 grown children, all of whom attended her funeral. Her husband was a gunner in the first Kansas battery, and was killed at Elm Springs, Ark. He ran a ferry at Lawrence before Babcock built the bridge.

"Lyndon Journal, October 17, 1895: The Rev. S. Y. Lum, 73 years old, who conducted the first religious services held in Lawrence, and who organized the Congregational church there, was killed by a train at Rutherford, N. S., last week."



## TRAILS IN SOUTHERN KANSAS.

Written by Hon. J. R. MEAD, of Wichita, for the annual meeting, January 17, 1893.

I have been requested to write something of an historical nature relating to Kansas, and, on applying to your Secretary for a suitable subject, he suggested "Trails in Central and Southern Kansas," a subject which should have been assigned to an older resident and abler writer than myself. However, I will attempt to write something of the trails of the bison, the Indian, the explorer, and the pioneer.

Trails pertain to the wilderness; to wild and uncivilized life. They quickly disappear after the surveyor's chain has passed over the land. Trails scorn section lines and right angles. They invariably take the most direct and practicable route between objective places. The shortest trail is between the camp and the neighboring spring; the longest of our trails, from the mouth of the Kaw to Santa Fe, N. M.

The first trails were made by wild animals; for animal life came upon the scene before man; and primitive man followed the trails of the wild animals in their wanderings and migrations to obtain food; and, for the further reason, that animals choose the most favorable routes of travel, and select the safest fording places across rivers; sometimes themselves making a safe ford, by constant travel wearing down the banks on either side, and tramping solid the miry river-bed. Animals have an instinctive knowledge of the lay of the country, and how best to reach their distant feeding or wintering grounds. Migratory birds have well-established trails over the land, with regular camping and feeding places: pursuing the same route and stopping at the same places year after year, as they travel through their airy trail from their winter home along the coast of the Gulf of Mexico to their breeding grounds northward towards the Arctic circle, whence they return yearly, until driven from their accustomed route by settlements of so-called civilized man, with breech-loading guns.

The bison, commonly called buffalo, was chief of the large animals surviving to our time. In their annual migrations, from their winter home in the Gulf country, the Indian territory, and the staked plains, across the Kansas plains to the Dacotas, and return in the fall, the vast herds of this most interesting animal furrowed the plains with their trails. These trails were used by the elk, deer and antelope; but as the habits of life of each were different, all made local trails of their own; all, however, converging at isolated watering-places. On the high, narrow, rocky divide between the Canadian and the Washita rivers, in the Indian territory, where abrupt ravines nearly met from either side, confining the travel to a few feet in width, the writer has seen a trail worn a foot deep in the solid sandstone rock by the countless hoofs of animals.

Of trails made by the mammoth and other huge animals, once inhabiting our country we have no knowledge. They disappeared before historic times. Primitive man followed the trails of the buffalo and elk, and subsisted upon these animals. Gangs of big gray wolves did the same; some of these latter the Indians caught when young and trained for their service. By tying light poles on either side, trailing behind, these Indian dogs could carry their master's few belongings from place to place; thus making the first lodge-pole trails—faint trails, but more easily followed than the moccasined foot of the



Indian, though soon obliterated by the countless herds of animal life. The aborigines probably made no well-defined trails, except between their numerous villages along the Missouri, the Kaw, and other timbered rivers, until after the advent of the Spaniards, when they became possessed of horses. Then suddenly the Indian became a new man, the peer of the fleetest-footed animals of the plains. He could travel vast distances without fatigue, and visit distant tribes or hunting-grounds with ease. Permanent trails were soon worn from place to place.

Colorado's Spaniards, the first Europeans to cross our plains (unless Alvar Nunez Cabeza de Vaca followed up the great Arkansas trail on his memorable trip across the continent), thus describe our prairies: "The plains were perfectly flat, and covered with grass of such a character that no permanent trail was left even by the passage of the whole army. Monuments of stone had to be raised at frequent intervals in order to guide stragglers"—a very good description of the western half of our state, covered with buffalo grass; but where did he get the stones on the "perfectly flat prairies"? The route or trail of Coronado, in his famous expedition from the Pueblos of New Mexico across the prairies of Kansas to the populous tribes along the Missouri, will ever remain an open question. The only point we can locate with reasonable certainty is the salt plain of the Cimarron, just within the Kansas line, the only place where rock salt could be obtained on the surface in all the plains country. This salt was known and used by the Indians, and was an article of trade, from the Gulf to the British line, and this locality was a well-known geographical point, from which distances were reckoned.

The red pipe-stone quarry of the north was another point known to most of the Indians of the continent.

That there was a well-known route of travel and traffic from the towns along the Missouri river to the many towns and cities of New Mexico since thousands of years ago I firmly believe. Coronado found people in the pueblos who knew the route well. I believe one such route passed up the north side of the Kansas river, by its numerous villages, crossed the Saline near its mouth; thence across the big bend of the Smoky Hill, crossing that river below the present site of Ellsworth, by the grove and springs at head of Cow creek, to the big bend of the Arkansas, which river it followed up to the Rio de los Animas, which stream it followed to the Raton Pass and over into New Mexico. I believe another aboriginal route of travel to have been from the great city which once stood opposite St. Louis, by boat up the Missouri river to the Osage, which river it followed to its source; thence across to the Arkansas river, which was followed to the mountains.

Another national highway crossed the Mississippi river at Memphis; thence west to the Arkansas river, along which river it followed around the big bend, through the buffalo country, across the planes to the populous towns beyond. That these routes were followed by the earliest explorers, trappers, and traders, we know, and they undoubtedly followed a previously existing trail, and had native guides who knew the route. It is to be regretted that the early Spanish explorers and those of more recent times left no permanent monuments or inscriptions. The only reliable date the writer has been able to find was in an obscure cave on the Smoky Hill river, southwest of Wilson. In 1862 I found carved in the rock, among a multitude of ancient hieroglyphics, the name and date,



## TRVDO, 1786.

Quite recent, yet more than 100 years ago. If that traveler had spent a day carving in the rock an account of his journey and surroundings it would now prove interesting reading.

In 1806 a detachment of Lieutenant Zebulon M. Pike's expedition passed along the Arkansas river in southern Kansas. In 1836 Jesse Chisholm guided a party of adventurers up the Arkansas trail to the mouth of the Little Arkansas, in search of a legendary gold mine. These trails along the Kansas and Arkansas rivers were probably the first used by civilized man across Kansas territory. Fremont's disastrous expedition of 1843 passed up the Kansas river to the mountains over the trail I have indicated. His fatal mistake was in lying idly in camp opposite Lecompton for six weeks of the beautiful fall weather, and by this delay reaching the mountains at the head of the Rio Grande to be overwhelmed by the fierce snows and cold weather, near where Creed camp is now flourishing. A Kansas frontiersman would have exercised better judgment.

From the main trail on the Kansas river lesser trails diverged up the principal branches. One trail followed up the Solomon river to the forks; another up the Saline to Spillman's creek; while an Indian trail extended from the Neosho river at Council Grove to the big bend of the Smoky Hill. On the establishment of military posts in Kansas territory the old trails became military roads; first following the Santa Fe trail to Fort Atkinson on the Arkansas, later up the Kansas river to Fort Riley; thence following other trails to Forts Zarah, Larned, Dodge, and Lyon.

The Pike's Peak excitement of 1859 made a plain wagon trail up the Smoky Hill river to the mountains, known as the "Smoky Hill trail." In southern Kansas, a great Osage Indian trail, antedating history, extended from the Neosho (Dacotah—"Ne," water, and "osho," clear) river to the Little Arkansas buffalo range, crossing the Verdigris river just above the junction of Fall river, at Chief Little Bear's (Mint Sho Shinka) town; following up Fall river, on the north side to the Flint hills; thence west to the Walnut river, which it crossed at the old town site of El Dorado, two miles below the present city, reaching the Whitewater at the junction of the west branch, near Towanda, on land settled upon by Daniel Culp while the buffalo still ranged over it, and where he still resides. This was a favorite camping place for the Osages, as it was just a day's march from the Arkansas, and furnished abundant fuel and shelter. The trail reached the Little Arkansas six miles above its mouth, where now resides Hon. E. P. Thompson. Near this crossing the treaty of the Little Arkansas was made, in the fall of 1866. This Osage trail was much used by the early traders, hunters, and settlers, and occasionally by parties passing from the East on up the Arkansas to the mountains. It bore evidence of age and much use, from the deep gullies worn in the river banks and slopes of the hills by rains and horses' hoofs.

What is known as the "old California trail" passed through Fayetteville, Ark., thence across the corner of the Indian territory, entering Kansas about the southwest corner of Chautauqua county; thence northwest between the Caney rivers across the corner of Elk, entering Butler near its southeast corner, reaching the Walnut at the Osage crossing near El Dorado; thence northwest to the Whitewater crossing below Plum Grove, and pursuing the same course to the old Santa Fe trail at Turkey creek, in McPherson county. This trail bore evidence of heavy wagon travel in former times. The writer passed over it in 1863. It





was then abandoned, and in places grown over with grass. Nearly all the trails in Kansas were along the north side valley of the river, where a river was followed. This was true of the Kansas, Solomon, Saline, Smoky Hill, Arkansas, Ninnescah, Medicine Lodge and Fall rivers; and, in the Indian territory, was true of the Salt Fork, Red Fork or Cimmaron, and North Canadian. And in every instance I have named in Kansas, a railroad has been built along the route of an ancient trail.

My experience traveling over Kansas trails began on the 31st day of May, 1859, when I crossed the Missouri river at Weston into the beautiful land which has since been my home. I soon found the city of Leavenworth, with a big wagon trail extending to the historic city of Lawrence. I call this well-known wagon road a-trail as it pursued nearly a direct course between the two places, paying no attention to anything but the best route and safest crossing of the Grasshopper, Big and Little Stranger, and other streams with suggestive names. The beautiful scenery was varied by flocks of gaily feathered paroquets, chattering in the tree-tops, while gaudily attired Delawares rode tough little ponies, or loafed about John Sarcoxie's log cabins. At Lawrence we crossed the Kaw by a primitive rope ferry; the huge windmill on the north end of Mount Oread being the most conspicuous object in sight. From Lawrence the trail followed the divide past portly Judge Wakefield's residence; thence to Tecunseh, an old Indian trading-post, where lived Thos. N. Stinson.

And not far away was Lecompton, the territorial capitol, where settlers were flocking to "file" or "prove up", and Ely Moore sat at his desk signing "declaratory statements," and Robt. S. Stevens, the projector and builder of the M. K. & T. R. R., occupied a 12 by 14 unpainted board office, reaping a rich harvest of dollars, making out "filing papers," "final proofs," and pleading contest cases. "Money to loan to prove up" was the device on many a little board building, the customary interest being half the land. Verily the money-loaner has been with us since territorial days. Flatboats loaded at this and other points carried hundreds of sacks of corn down the shallow and uncertain Kaw to McAlpine's warehouse at Wyandotte. Thus early had Kansas begun to borrow eastern money, and to ship grain eastward over a trail divided between water and sand-bars.

The trail which I at this time followed continued on to Topeka, a muddy little town on a hill. Thence turning southwest, we reached the Wakarusa at a rocky ford where dwelt the urbane, diplomatic Chester Thomas, who spent an evening at our camp, to great delight. Continuing on, this wagon trail took us to Burlingame, where were the home of Marsh Murdock, the editor, the Schuyler mansion, and I. B. Titus's toll-bridge. At Burlingame the writer first saw the great Santa Fe trail, connecting people of diverse race and language, separated by hundreds of miles of savage wilderness. This huge trail, 60 to 100 feet wide, was worn smooth and solid by constant travel of ponderous wagons carrying 8,000 to 10,000 pounds each. Sometimes three wagons trailed together; from 10 to 30 constituting a train; drawn by 8, 16 or 20 oxen or mules each; coming in from New Mexico loaded with wool, hides, robes, or silver, returning with almost everything used by man, woman, or child. The drivers were known as "bull whackers" or "mule skimmers," mostly semi-Indian, half-civilized "greasers", faithful, patient, brown skinned, with hair of jet, hanging on their shoulders, wielding long lashes with such skill as to cut a rattlesnake's head off at 20 feet, or cut through the tough hide of a refractory ox. The popping of their whips on entering a town or at a bad crossing sounded like the rapid discharge of fire-arms. So



well had the route of this trail been chosen, that no considerable hill or unsafe ford occurred in its more than 400 miles through Kansas, while convenient camping places, with fuel, water, and grass, three essentials, were found at convenient distances.

From Burlingame the writer followed the Topeka trail to an ambitious young town called Emporia; passing by Superior, J. M. Winchell's offspring, by Waterloo and Mickel's hotel, a forgotten town. At Emporia we helped celebrate the glorious Fourth of July beneath the grateful shades of boughs brought from the neighboring Neosho. Plumb, Stotler, Swallow and others were there. The wagon trail from Burlingame to Emporia chose a direct course, no fences or fields interfering, with good camping places at the creek crossings. From Emporia the trail continued west to Cottonwood Falls; thence south up the South Fork past Bazaar. A shorter cut crossed the Cottonwood river eight miles west of Emporia, crossing the divide by Jacob's creek and mound to the South Fork, which it followed to its head; thence across a high prairie divide to the head of the Walnut, which it followed down, by the Sycamore Springs, to Chelsea, once the county-seat of Butler, and the home of George T. Donaldson and J. C. Lambdin; thence on down the Walnut to the old town site of El Dorado, at the Osage crossing, where one branch followed the trail west to the Whitewater and on to the Buffalo, the other continuing down the Walnut to the junction of the two rivers, where Augusta has since been built.

There were no north and south trails across Kansas and the Indian territory made by man's agencies until the Texas-cattle invasion at the close of the civil war. The Pawnee Indians, whose home was on the Platte river near Fort Kearny, had a route of travel south across Kansas, which they followed in their constant marauding expeditions, going south afoot, riding back, if lucky in stealing horses from the wild Indian, or some hunter, freighter, or settler, frequently leaving their bones, stuck full of iron arrow-points, by the way. Their route, as the writer has abundant reasons to remember, was through what is now Republic, Mitchell and Lincoln counties, crossing Saline near the mouth of Wolf creek, and finding secure shelter and camping places in the abrupt ravines on the south side, and the opportunity to carve a record of their adventures on the overhanging rocky walls. I have read the story of adventure and success from these records graven in the rocks. They crossed the Smoky Hill west of the "Cedar Bluff" of the old-time hunters, now Wilson station and Coal creek, and so across to the big bend of the Arkansas; unless they sooner found some camp with horses.

In March, 1862, while camped on Stillman's creek, a returning party of these Indians came into my camp, having 34 head of stolen horses and mules with Mexican brands. They had been absent on that expedition six months; said they had been to New Mexico. Returning by the rock salt of the Cimarron, they had loaded a number of horses with blocks of rock salt to take home to their village north of the Platte river, in Nebraska.

Next to the Santa Fe, the most interesting and important trail in Kansas was the Chisholm trail. Prior to the war, there was no trail across the Indian territory into central Kansas. At the outbreak of the civil war, the loyal Indians of the territory fled north for safety, and, among others, some Shawnees, Delawares, and colored people; with wagons, on horseback or on foot; crossing rivers, timber, and prairie; arriving at the mouth of the Little Arkansas, where they crossed; and thence east to friends and civilization.

In the fall of 1863, the Wichita affiliated band of Indians, refugees from their home on the Washita, moved to the mouth of the Little Arkansas river, to sub-



sist upon the buffalo, and in the winter the men made excursions to their old home, collecting and driving up horses and cattle. In 1864 came Jesse Chisholm, a man in whose veins flowed the mingled blood of the Scotch Highlander and the Cherokee Indian, a man of great influence among the Indians of the plains and the territory. He loaded some teams with goods from the writer's trading-post at Towanda, crossed at the mouth of the Little Arkansas, and started south, selecting the most suitable route to his old trading-post on the North Fork of the Canadian, known as Council Grove. Other traders followed his trail. Soon a highway of traffic and travel was established, and at the close of the war was used to transport supplies to the new military posts of the territory. This was the first marking of the route over which hundreds of thousands of Texas cattle were driven into central Kansas. This trail, originally made and used by traders, hunters, and Indians, became a great national highway, connecting distant states, and taxing the new railroads of central Kansas to handle the vast numbers of cattle driven over it from the south. Originally connecting the Wichita Indian village at the mouth of the Little Arkansas river with the North Fork of the Canadian, it lengthened out at each end until it reached from Abilene, Kas., to San Antonio, Tex. The Rock Island railroad, from Wichita south to El Reno, follows the famous old Chisholm trail.

---

## ADDRESS OF PRESIDENT P. G. LOWE.

Delivered at the eighteenth annual meeting, January 16, 1894.

Knowing that your Secretary would make an able, exhaustive, clear and comprehensive report, as he always does, which has been submitted and approved, covering everything of interest to this Society, I have thought it useless to say anything in that connection. The Secretary has tried to impress upon me the importance and propriety of recording some of my experience in Kansas; something that would add to the already plethoric record; but it would be impossible for me to write history — 't is not in my line. While I might exchange experiences with a man of like tastes in a way to amuse and perhaps interest, I feel my utter incompetency to properly record historic events.

But in order to comply with the usual custom of delivering an address as retiring President, I will go back nearly 42 years, into the then Indian territory, and relate a few incidents; more to gratify the penchant of an old campaigner to mingle with the spirits of bygone days, than for any historic value they possess, for volumes might have been written of more interesting matter than my experience covers, and volumes have been written and are now in our libraries, charming truths that read like romance; and yet the half has never been told of the great Santa Fe trail.

"B" troop, First United States dragoons, left Fort Leavenworth in the spring of 1852 for the usual summer campaign, this time along the commercial highway leading from the Missouri river to New Mexico. Arrived in the vicinity of Cow creek, now in Rice county, it became evident that the Kiowas and Comanches were as energetic as usual, annoying trains, surprising small parties, and driving off stock. Several trains were compelled to corral and "stand them off" until relieved by the dragoons. Some inexperienced people have charged Indians with possessing less real courage than white men. There never was a greater mistake. They knew that bows and arrows, good at 40 yards, could not compete with rifles



at 100 or 200 yards, and so they skirmished for the advantage, and took it whenever they could, as became the sensible robbers and bandits that they were. Arrived on the Arkansas, from the mouth of Walnut creek west, the danger to trains was great. Nothing short of constant, intelligent, determined and exhaustive effort on the part of the commanding officer, Lieut. D. H. Hastings, served to protect the trains from destruction, until he compelled their owners and managers to concentrate in large caravans, and proceed with the greatest caution in double column.

One morning near Pawnee rock, now near the corner of Barton, Stafford and Pawnee counties, a Mexican train of 10-mule teams pulled out of camp. The rear team was made up of seven little mules and three burros. The load was heavy and the team lagged. Suddenly a band of Indians was seen charging towards this train. The train-master did the usual thing, hurried into corral as fast as possible, and succeeded very well except as to this last team, which all expected to see captured and the man and his 10-year-old son scalped. Seeing his desperate situation, the father hid the boy in the wagon under some blankets, in hopes that relief might come to his son, though he must die. The dragoons had camped west of Walnut creek, near where Great Bend, the county-seat of Barton county, now is, and had made an early start, in order to halt this very train until others should come up. A few skirmishers on the high ground saw the situation, and charged in time to drive off the robbers, though a shower of arrows had already hit the wagon and slightly wounded the man. One pony was killed, and it was believed that some Indians were wounded, though all got away.

Probably no better officer than Lieutenant Hastings ever commanded a troop. He was 40 years old, had served half of his life in the army—more than 15 years a first sergeant—and was promoted from the ranks for gallantry in Mexico. His right heel had been shot off while reconnoitering from a tree near Chapultepec. He wore a cork one; was a good walker, and a fine horseman. This was his second campaign with this troop. And now he was approaching ground sacred to the memory of brave men, and there was still with the troop a remnant of those who fought desperately at the mouth of Coon creek, now in Pawnee county, when in 1846 12 men out of a detachment of 20 were wounded, some of them fatally, in recovering cattle that had been driven off by Indians. Sergeant Peel, Bugler Boydon and others kept alive the fires that burned in memory of their fallen comrades, and the spirit that pervaded the little command boded no good to the reckless robbers that infested the Santa Fe trail from the Little Arkansas to Mexico. The Indians knew the troop—the sorrel horses, the blue shirts worn in the field in place of the regulation uniform, the drab hats, the horses and men that they had seen the year before, when by forced marches Fort Atkinson was relieved—in fact they had not forgotten the sorrel troop since 1846.

Having concentrated the trains and escorted them via the so-called Cimarron crossing of the Arkansas, about where Cimarron station, on the Santa Fe railroad now is, to about 60 miles southwest of that point, the troop returned, and went into camp about where Dodge City now is, and about four miles below Fort Atkinson.

Here the whole Kiowa and Comanche tribes seemed to have concentrated in one vast camp on the south side of the river, opposite the dragoon camp. Company D, Sixth infantry, was at Atkinson, Brevet Captain Buckner commanding.

Guard duty was extremely arduous, nearly half the men being under arms, among the horses or on post, day and night. This constant strain told on the





disposition of the men more in camp than on the active march. They became tired and morose, and, with the cause of their trouble constantly before them, became somewhat reckless, and would have welcomed almost anything for a change.

There was no active war. Every day some of the head men of the tribes came into camp to talk with the "white chief," always expressing regret that they could not "control their young men." One day while this kind of farce was being enacted, a young buck rushed across the river and reported to the chief who was talking with Lieutenant Hastings that a few miles away some of the "bad young men" were attacking a train. Hastings' information led him to believe that there were no trains within more than 100 miles of him. That a government train and escort was on the way, with which a caravan of freighters had joined at Council Grove, he knew, and he also knew it to be too strong to tempt the Indians to attack. The actions of the Indians and the commotion in their camp made him believe there was something wrong. When "boots and saddles" sounded the interviewer broke for the other side of the river, and their whole camp seemed to be under arms. Their horse herds were rounded up and hundreds of the horses saddled. Hastings concluded that all of their fine talk for some days had been to gain his confidence, and this report was to induce him to send a detail to the relief of the "train" said to be besieged, thereby dividing his command, so that a sudden rush could destroy the dragoon camp and probably wipe out the detail afterwards. But instead of dividing his command, Hastings made it more secure by tying all horses to the picket line and mules to the wagons, and doubling the line of sentinels along the river, thereby plainly indicating that he understood their little ruse.

And now all grass for the animals was cut with butcher-knives. Fortunately the grass was abundant, and by moving a little up or down the river it could be had within convenient distance. This episode somewhat dampened diplomatic relations between the wily warriors and the "long knife chief," and the effect on soldiers mowing grass with butcher-knives was anything but soothing. Such strained relations could not last very long.

Guard-mounting while on campaign was always in the evening. When the old guard was relieved it was marched to the river below the camp, and the musketoons discharged down stream. One fine evening, a few days after the incident above referred to, Sergeant Cuddy marched the old guard off, and having given the command "fire," some of the men deliberately turned their pieces and fired across the river into the Indian camp, not at the people, but hitting the tops of some lodges. Cuddy was completely surprised, and exclaimed, "What the — do you mean?" No one answered. Cuddy was a noble soldier and one of the finest specimens of manhood alive. He felt his responsibility and knew his duty. Having dismissed the guard he reported to Lieutenant Hastings, and explained the occurrence. Soon a mounted messenger left camp with a letter to the commanding officer at Atkinson, presumably to inform him of supposed danger. Every precaution was taken, and, with the river on one side and a deep ditch running from it, there was the most perfect confidence in the ability of that camp to defend itself.

About 9 or 10 o'clock, as the gentle south breeze blew across the river, the rattling of lodge poles was heard, not loud rattling, as if being carelessly handled, but an occasional click, as if great pains were being taken to avoid making a noise. The Indians were surely taking down their lodges. The sound of "tom-toms," that made barbarous music for the monotonous chant and dance, the war-dance, the scalp-dance, the squaw-dance, and every



other dance that had hitherto made their camp hideous till the wee small hours, was not heard on this lovely night. Nothing but the slight rattling of lodge poles; even the dogs were silent. Hour after hour passed, and silence reigned supreme—silence that was oppressive. It was like a dead calm when storm-laden clouds hang thick and threatening. The hours from midnight to dawn seemed long and tedious. When the sun sent its glimmering rays up the beautiful valley, not a lodge, not a soul or an animal was in sight. Where a few hours before had stood a large city in all of its savage grandeur, with great herds of horses and mules grazing in the vicinity, not a living thing remained save the prowling coyotes. All had silently stolen away. The dragoons were puzzled. They had expected prompt and bloody resentment.

Mounted videttes went to their posts upon the bluffs north of camp; from there and from the tops of wagons the Indian camp ground was carefully examined. Peel, Cuddy, and another crossed over at some distance apart, for fear of an ambush, while a line of men on the river bank stood ready to support them. For more than a mile lodge poles and every kind of Indian equipage lay scattered upon the ground. Where each lodge had stood more or less of the family property was left. The poles were all there. In their haste they had taken their best lodges, and whatever they could pack that was of greatest necessity to them. In a few hours they had packed hundreds of horses, and, mounted on others, had scattered in all directions, to meet at some appointed rendezvous probably hundreds of miles away. Not a lodge-pole trail led from the camp.

The men were in high spirits, notwithstanding the probability that, after their families were at a safe distance, the warriors, under the great war chief, Sautanta, might make it warm for them. It was a change, and they heeded not the future. In two days everything desirable for comfort or pleasure had been moved to the dragoon camp and the rest burned. Not a vestige of the great Kiowa and Comanche camp remained. The soldiers had killikinick by the bushel and Indian pipes to smoke it in, and buckskin in every style. Buffalo chips were no longer gathered in sacks for fuel, lodge poles having taken their place.

But these dragoons were not without sentiment and sympathy. Emblems of motherly love and helpless infancy were found in abundance. Papoose cribs, buckskin clothing for infancy, maidenhood and old age, robes, moccasins, and trinkets of all kinds, told of the terrible sacrifice the women and children had made, and there was general regret that the helpless ones had left so much of home and comfort behind.

The Indian movement could only be explained by supposing that they considered firing into their camp a declaration of war. But the dragoons could not understand why so many warriors should be so easily bluffed. They had heretofore been very independent and saucy. While very diplomatic and deceitful, the chiefs who visited camp acted in a patronizing sort of way, leaving the impression that they held the soldiers in utter contempt. They had learned enough to convince them that the superiority of the soldier was in his arms; not in his horsemanship, for the Kiowas and Comanches were the finest horsemen in the world, nor in his strength and prowess as a warrior. These athletic, sinewy sons of the plains were from an ancestry that had been warriors since the race was created, so far as known, and from infancy through every stage of their existence their normal condition was that of warriors and champions of the chase. From instinct and education they were alert, cunning, strategic, recklessly brave, and capable of subsisting where white men would utterly perish. To say that such



men, given equal arms and supplies, are not the equals, as rank and file soldiers, of any race known to history, is bald nonsense.

Two days after the Indian movement the train and escort heretofore referred to, including some artillery, came up, en route to New Mexico. Hastings was not expecting them so soon. It seems that Indian runners brought the news, and their conclusion was that the troops were coming to help clear them out. Firing into their camp confirmed this belief; hence their sudden departure. It was an odd coincidence.

Brevet Maj. R. H. Chilton, captain of "B" troop, joined from a six months' leave.

Two weeks had passed, no Indians had been seen, and the two great tribes that harassed travel and were a constant menace to the commerce of the plains were believed to have gone to Texas, and would probably extend their raid into old Mexico, as was their habit. This had been a bad season for them. They had captured no trains, no fresh scalps dangled at their bridle-bits, and they had met with some losses. Peace seemed assured for the balance of the freighting season.

Owing to the great amount of travel, the buffalo kept away from the road, and to procure fresh meat it was necessary to go a few miles from it.

One bright morning Sergeant Peel and a comrade got permission to go on a hunt as far as what Sergeant Ferguson called "Angel spring," the head of what is now known as the south fork of Pawnee Fork of the Arkansas, six miles north of camp, it being understood that Sergeant Cook would be out there with a six-mule team about noon to haul in whatever the hunters killed.

At 17 years of age Langford M. Peel enlisted at Carlisle Barracks as a bugler. His father was a soldier, and Peel was practically raised in the army. He was assigned to "B" troop, commanded by E. V. Sumner, and served 10 years. In the spring of 1846, in a battle at the mouth of Coon creek, heretofore referred to, Bugler Peel, then not yet 20 years of age, was credited with having killed three Indians. Three years and a half later, in a battle with Pawnees near Fort Kearny, he killed two, and a month later one. He was the best specimen of 160 pounds, 5 feet 9 inches, naturally bright, clear-headed, cheerful, and helpful always; as keen as any Indian on the trail, well up in every branch of prairie craft. A perfect horseman, possessing unlimited courage and endurance, he was a man to be relied on and trusted in every emergency. Half a dozen such non-commissioned officers under a good commander would make a troop invincible.

Peel and his companions arrived early, drank from the lovely spring, watered their horses, and hobbled and picketed them for safety.

Buffalo were plentiful, and seemed perfectly at ease on the grazing grounds, indicating that they had not been disturbed, and giving assurance to the hunters that no Indians were in the vicinity. Waiting patiently for the buffalo to come to water, in a couple of hours they had two fine ones, within a short distance of the spring, cut up, ready for transportation. Then they built a fire of buffalo chips, broiled meat, and feasted as only an Indian or a plainsman can; smoked, and recounted their adventures. Noon—and Cook and the wagon not in sight.

The creek from Angel Spring runs a little east of north; on the east, bluff; in some places, vertical, rocky bluffs from 10 to 30 or 40 feet above the level of the creek; to the west some bottom, gradually sloping to high ground.

Along the creek, which hugged the bluffs pretty closely, were scattered trees, choke-cherry and wild plum bushes, with numerous wild grape-vines, forming small patches of dense thicket in some places. Little more than a mile north of the spring a herd of buffalo lay in the open bottom. The land



lay so that it was easy to approach them, and the wind was favorable. The temptation was great. The campaign had been one of monotonous care and drudgery, and no mounted hunting had been allowed on account of the necessity of keeping the horses in the best possible condition, and this was the first good opportunity to have some real sport. They agreed to make a 10-minutes run to see which could kill the most in that time, the pending bet being a good dinner when they reached "America." Such was civilization called among plainsmen. They approached the herd at a walk, and were within easy pistol shot before the buffalo saw them. Then each went his way, Peel to the west, his companion to the east. The latter dropped his first buffalo in the bottom, the second ran east to the top of the bluff where he fell. The man was down cutting out the tongue, when the voice of Peel rang out, as he came up the hill, "Get on your horse!" No time was lost, and looking east he pointed to 50 or more Indians in a half circle not more than half a mile away, their left wing so far advanced that retreat towards camp seemed practically cut off. Consultation was brief. Peel led the way down the hill, circled around a thicket, carefully selecting the firm buffalo-grass sod so as to leave no trail, and drew into cover not 20 yards from where some of the Indians were sure to come down. Here they sat on their horses, pistols in hand. They had no future plans; they might have to fight to the death under that bluff; they would do whatever circumstances seemed to dictate. They had not long to wait. The Indians came rattling down the rocky trails leading into the bottom, sending out their blood-curdling war-whoops at every jump. They seemed to think the fleeing men would try to escape towards camp, and be enveloped in the circle; did not think they would stop to hide, nor that they would do anything but run for their lives, which would be sure death. Their greatest success had been against demoralized men who had given up hope and lost their heads, which soon made their scalps an easy prey. One brawny brave drew rein at the foot of the trail where the men had come down, raised himself in his stirrups and looked sharply towards them. Peel's companion, believing they were discovered, and that a signal would bring the whole pack of howling demons, raised his pistol to shoot, but Peel quietly reached over, and placing his hand on his comrade's arm gently pressed it down. In less time than it takes to tell it the Indian was off to the west, showing by his actions that he had not seen them. Hearing no more noise from the east, the way seemed clear in that direction. Peel led the way out, and they quietly walked their horses up where they had come down a few minutes before, turned south, and gently trotted towards camp, saving their horses' wind for the critical moment which they knew must soon come.

By this time the Indians seemed confused. The hunters could see most of them riding helter-skelter and peering from the highest points to the west of the creek, never dreaming that they had passed the game. More than a half a mile had been covered, not away from the enemy but directly south, slipping by, when suddenly they were discovered, and every Indian charged toward them furiously. But the hunters' horses were comparatively fresh, they were on the high ground, and as far south towards camp as the most southern Indians, with four or five miles of nearly level stretch ahead of them, while the Indians had to rise considerably and oblique to the east to gain that level, and they felt that, while the race would be interesting, barring an accident, they were pretty safe. The greatest danger was that a horse might step in a prairie-dog or badger hole and fall; hence they rode with great care.

When fairly under way and all on a level, the soldiers were a quarter of a mile





ahead. Soon the wagon was seen. Cook's horse was tied behind, while he rode with Matthews on the "lazy board," as they smoked and chatted. Then, to attract Cook's attention, and not lose a shot, the two hunters turned in their saddles and fired at the Indians. Quickly Cook was seen to mount his horse, Matthews turned his team, and Cook "interested" the mules with the "black-snake." About two miles further and the hunters were close to the wagon. A vidette on a high point north of camp saw something wrong in the distance and discharged his musketoon; then the other vidette on another high point discharged his. In the meantime the Indians had not gained on the men until within the last mile, and then only because the team impeded their progress a little. Not half of them had kept to the front—some of them were a mile behind. Arrived near the videttes, Matthews was allowed to find his way down the hill. Cook joined the hunters and shooting began in earnest, including the two videttes, who had been using the musketoons at long range for all they were worth. Seeing the hopelessness of capturing their game, and knowing that a strong force from the troop would soon be up the hill, having lost two ponies and had some of their number wounded, the Indians retreated. At the risk of their lives they carry off the dead and wounded if possible. When Hastings with half of the troop came up the steep hill, the Indians were well on the retreat, and he followed them only a short distance beyond the crippled ponies. Horse-flesh was too precious to be wasted in a pursuit that could accomplish nothing.

No fresh meat cheered the camp that night, but it was a jolly, happy camp. All answered to their names at retreat roll-call. There was something new to talk about, as men sat round the lodge-pole fires and related the traditions of the grand old troop.

The next day Major Chilton with 40 men, including those in the excitement of the previous day, went to the spring, killed more buffalo, and returned with a wagon-load. No Indians were seen, and the wolves were feasting on the buffaloes killed the day before. Of course Major Chilton examined the ground that Peel and his companion had gone over, including the hiding-place and race-course. Now when Peel discovered the Indians he was half a mile west of his comrade and nearly one and a half from the Indians. He could easily have escaped by going south towards camp. He had scarcely one chance in 10 to save his friend, but he took that chance, such as it was, in the face of almost sure death. He saw the thicket and the steep, shelving bluff as he went up the hill. To hide there seemed reckless, even to foolishness, but he builded better than he knew. Until that moment he had no idea how to act, unless the two should get on a high point and with their revolvers stand the Indians off until help should come. The latter was all he hoped for, and he knew that if Cook saw the situation that hero in every emergency would join the two or die. One iota of cowardice would have induced Peel to abandon his friend and save himself, and how easily Cook could have left the teamster and rode to camp for the troop, as many a coward has done, and been counted a hero for the noise he made. But no such weakness troubled his manly soul. Like Peel, he was a born hero. The videttes on the bluffs could have pulled their picket-pins, mounted their horses, and rushed into camp after discharging their guns—such were their general instructions: but they saw their comrades in trouble, and Charles McDonald and Edward O'Mara confirmed the faith that their comrades had in them. They were brave and true men.



## COL. WILLIAM A. PHILLIPS.

Portion of an address in course of preparation by Hon. T. Dwight Thacher, to be delivered by him at the annual meeting of the Society, January 16, 1894; left unfinished by him at his sudden death, which occurred January 17, 1894.

It is 40 years ago, this month, that the great Kansas struggle began by the introduction in the senate of the United States by Mr. Douglas of his bill for the organization of the territories of Kansas and Nebraska, embodying the repeal of the Missouri compromise and the enunciation of the so-called principle of squatter sovereignty or non-intervention. More than the period of a generation of men has passed. The men of mature life when that struggle began have almost all passed away. It is startling to read over the list of senators and representatives who voted upon the final passage of the Kansas-Nebraska bill, and to recognize among them not a single name now prominent in public life, with the exception of the now venerable Galusha A. Grow, of Pennsylvania, who, after a long retiracy from public view, has just been nominated by acclamation by the republicans of Pennsylvania for congressman-at-large from that state. Where are Seward, Sumner, Chase, Hamlin, Giddings, Ben Wade, of the one side, and Douglas, Cass, Atchison, Mason, Slidell, Toombs, and John Petit, of the other? Gone—all gone! They are mere historic names, like Washington, Jefferson, and Adams. The young men of that day, who were just entering upon public life, and who still survive, are the veterans of to-day, pacing the downward slope of life with their faces towards the setting sun, and with night and darkness not far away. Among them all, Senator John Sherman, the early and fast friend of Kansas, venerable and illustrious man, is almost the only survivor in the halls of congress. With the lapse of so many years the events of that early period begin to assume a true historic perspective, and we are enabled to form a more correct and appreciative estimate of the actors in that great struggle. We can see what events were forceful, impressive, lasting in influence, and what were temporary, incidental, and ephemeral.

Since our Society last met, one of the pioneers of Kansas—a man honorably and influentially connected with our earliest history, as well as with our subsequent growth and development—has passed away. I need not say that I refer to the late Col. William A. Phillips, of Salina—a recent President and a long-time member of the State Historical Society.

Colonel Phillips was a native of Scotland, but came to Illinois when a child with his parents. He studied and practiced law and edited a newspaper at Chester, in that state. He seems to have developed at an early age that taste for literary labors which distinguished him all his life, for, in addition to his editorial work, he wrote a book or two, and had made for himself a place on the New York "Tribune" as contributor and correspondent before 1855. In that year he came to Kansas as the regular staff representative of the "Tribune"—a position which he held for many years. He maintained close relations with that great paper all his life, being a frequent editorial contributor to its columns. His connection with the "Tribune" gave him great opportunity to assist the free-state cause in Kansas. That paper then was in the very zenith of its career, and was beyond all question the most able and influential newspaper in America. Horace Greeley, one of the greatest and most original men this country has ever



produced, was its editor-in-chief, while Charles A. Dana, the best newspaper manager that the old school of journalism has known, and who still maintains his position at the head of a great New York paper—the “Sun”—was his first lieutenant, assisted by a brilliant staff of thinkers and writers; the whole organization producing a journal of unique and tremendous influence.

I suppose there were more men in the United States who “swore by the New York ‘Tribune’” in the fateful years from 1850 to 1860 and ’61 than ever followed the intellectual leadership of any other newspaper in the world, before or since. It stirs the blood like a trumpet to read the “Tribune” editorials of those days now. The youthful Phillips must have been deemed a man of rare power to have been put in command of such an outpost of the great battle of freedom as Kansas then was. The whole country was his audience when he spoke through the columns of his journal; for it was a fact significant of the power and ability of the “Tribune” that its enemies read it almost as much as its friends. They could not afford to ignore it. Its resources were so great, its powers of presentation so marvelous, its energy and enthusiasm so absolutely unflagging, and its circulation, for those days, so vast, that it commanded attention and respect everywhere. Presidents and cabinets read it and feared it; the pioneer in his rude cabin on the vast prairies of the West flamed with indignation as he read its accounts of border-ruffian outrages in Kansas. The Kansas question was the live and burning question of the hour, and the “Tribune” was the champion of the free-state cause.

Colonel Phillips believed in the free-state cause with the intensity of absolute conviction and with the enthusiasm of youth. His work was a labor of love as well as the fulfillment of duty. As a correspondent he was indefatigable. He hesitated at no risks, drew back at no dangers. He attended all the conventions of both parties, visited the camps of invading enemies, reported in full the doings and debates of the border-ruffian or “bogus” legislature, and left in his book, “The Conquest of Kansas,” and in his letters to the “Tribune,” the best and most graphic picture of the early years of the Kansas struggle that we have. The book is a compact volume of over 400 pages. Its title-page reads, “The Conquest of Kansas by Missouri and her Allies. A history of the troubles in Kansas, from the passage of the organic act until the close of July, 1856. By William Phillips, special correspondent of the New York ‘Tribune’ for Kansas.” And then follows the celebrated extract from William H. Seward’s speech in the United States senate upon the Kansas-Nebraska bill: “Come on then, gentlemen of the slave states; since there is no escaping your challenge, I accept it in behalf of freedom. We will engage in competition for the virgin soil of Kansas, and God give the victory to the side that is stronger in numbers as it is in right.”

The book was written in the dark hours of the struggle, and closes with the dispersion of the free-state legislature at Topeka.

---

### MEMORIAL DISCOURSE.

WILLIAM BISHOP on the life and character of Hon. William A. Phillips. Delivered before the State Historical Society at Topeka, at the annual meeting, January 16, 1894.

I rise to perform one of the saddest duties that was ever laid upon me. I have for a generation enjoyed the uninterrupted and intimate friendship of our departed friend and brother. It therefore seems appropriate that I should offer some tribute to the memory of one who acted so large a part in the drama of life. The story of his life and achievements, the analysis of his personality, might be expanded into volumes, but must now be condensed within a few pages.



William Addison Phillips was born in Paisley, Renfrewshire, Scotland, on the 14th of January, 1824, the son of John Phillips, a man of superior mind, of high character, and with fine artistic and literary tastes. His mother, so recently borne tenderly to the "house appointed for all living," was a woman of remarkable powers, and the object of universal veneration and love.

He received his education in the schools of his native city, passing through the various grades, and graduating in the grammar-school, as we would call it now, a "classical academy." He made considerable progress in the study of the Latin language and mathematics. He was a very apt scholar, and always held the position of *dux* in his classes, i. e., he uniformly stood at the head of his class. He was gifted with a wonderful memory and remarkable powers of acquisition. He never ceased his habits of study, so that he had, in the best and highest sense of the term, a "liberal education." He was a "self-made man," as all eminent men must be, whatever their scholastic training.

In 1839, at the age of 15, he came to America with his parents, who settled on a farm in Randolph county, southern Illinois. Here he grew up to manhood; and we may be sure he was just as energetic, pushing and laborious as a farmer as he was in boyhood in school, or as he was in subsequent life, when he stood before the public on a wider theater of action, with his name connected with great historic movements. About the time he reached his majority he became editor of the Chester "Herald," and associated with him was Capt. B. J. F. Hanna. During this period of journalism, from 1852 to 1855, he studied law and was admitted to practice before the courts. It is characteristic of his industry that while he was editing a paper, studying and practicing law, he was also a correspondent of the New York "Tribune." In the fall of 1855 he came to Kansas, and was officially appointed by Horace Greeley a member of his editorial staff, and henceforth, during all the Kansas conflict, that great journal became the vehicle that carried far and wide his "powerful letters." His matchless, and, I may say, his flaming pen and burning words, fired the hearts of the millions all over the United States, awakening enthusiasm among the friends of freedom, and antagonism among the friends of slavery.

In the spring of 1856 he wrote and published—all done within two months—his "Conquest of Kansas," as a campaign document to be used during the presidential election, Fremont and Buchanan being the candidates—the former representing resistance to the aggressions of the slave power, the latter subservience to the slave oligarchy. From that day to this Colonel Phillips has been a man of mark, enjoying a national reputation, his name identified with all the great struggles between freedom and slavery, and with the subsequent triumphant achievements in the state and the nation.

In accordance with the logic of events, the struggle in Kansas for the supremacy of liberty and law, with its ultimate victory, was but the precursor of the larger and more tremendous struggle for national sovereignty against the myriads of treason and rebellion, with its victorious results. So, according to the logic of his life, with characteristic promptness, our friend buckled on his sword in defense of the same great principles to which he had dedicated his pen. He at once enlisted, and was soon commissioned as major of the First Indian regiment. He was a brave soldier and a capable commander. Shortly afterward he was promoted to the colonelcy of the famous Cherokee regiment. He commanded for a time the Indian brigade, and under General Schofield was commander of a division in the field, including Indian troops with cavalry, battery, and regiments from Kansas, Arkansas, Illinois, and Wisconsin. He was wounded three times and had four horses killed under him in battle.





But it is not necessary to recount the events of his military career; suffice it to say, that its merits are recognized by all who have made it a subject of investigation. Military experts uniformly testify that his army record was both distinguished and brilliant. His stern and unflinching exposure and punishment of miscreants who enriched themselves by dishonest speculations at the expense of their country was one of the causes, with other sinister influences, which prevented merited promotion. He was far more worthy of wearing the epaulets of a brigadier- or major-general than scores who were decorated with such insignia. When the war closed he returned to his home in the city of which he was the founder. For a number of years he was employed as an attorney for the Cherokee Indians, ably representing and conserving their interests before the interior department at Washington. He was recognized as their ablest and truest champion, and there as here tears are shed for the loss of so dear a friend.

From 1872 to 1878 he was the ablest and most distinguished representative from Kansas in the halls of congress. His achievements as a congressman are well known. It is therefore unnecessary to recall the measures which he so ably advocated. For some of them the country was not then ready. They were in advance of public thought and sentiment. But the nation has since grown up to his position, and so some of his proposed measures are now incorporated in national legislation. In two respects he resembles Charles Sumner, the great senator from Massachusetts, to whose memory he pronounced an eloquent eulogy in the house of representatives: (1) He was ahead of the times, so that often his ideal had to wait until the progress of society made it practical. (2) He was a statesman rather than a politician. He had no taste for manipulating the machine. But all admitted the strength of his intellect, his honesty of purpose, his pure and fervent patriotism and his large grasp of constitutional and governmental questions.

While in congress he was an active and prominent member of the committee on public lands, and this led him to make extensive and exhaustive investigations touching the system of land tenure in all ages, and among the nations and empires of the world, with an analysis of the laws which have governed the proprietorship of real estate, and an explication of the status of labor as necessarily affected by the different types of legislation. When released from public service, he immediately began the work of giving shape and form to his recondite researches. The result was a book entitled "Labor, Land, and Law," which received the highest encomium from publicists, scientists, scholars, philosophers, and statesmen, not only in this country but beyond the ocean. It is the work of a profound thinker, who handled as a master the philosophy of history. I trust I am not violating the sacredness of the tenderest relationship when I say that his excellent and accomplished wife, who now sits in the darkness of widowhood, was his companion and helper in this labor of love. In token of her material assistance in the preparation of the work, to her it is "affectionately inscribed by the author." How touching and beautiful this unity of heart, purpose, and aspiration! Even amid sorrow there are hallowed and imperishable memories. Alas, this sweet communion of congenial spirits has been brought to a sudden pause. The husband has passed the gates of death, and these walks of time shall know him no more. He has finished his course. He rests from his labors, and his works do follow him.

A marvelous coincidence connected with his death is worthy of notice, and the more we think of it the more it enchains our contemplations. Just 26 years ago, 1867, Thanksgiving day, his oldest son, a manly boy of 14 years of



age, perished in a snow-storm. The tidings of his death was carried to his father while he was sojourning at Fort Gibson, in the hospitable mansion of Chief W. P. Ross. On Thanksgiving day, November 30, 1893, that father died in the same house. Let us trust that father and son are now together again to hold everlasting thanksgiving and rejoice in the mansions of glory—that "house not made with hands, eternal in the heavens."

I have given a very brief and, of course, inadequate sketch of the principal events in the honorable career of our departed brother. But meager as it is, I think we may discern some of the salient points of his character and personality. I am aware that those who knew him best will see much omitted in the portraiture presented, as he reveals himself to their memory, and stands embodied before their conception. What, then, was the groundwork of his life—the elements that entered into his manhood which gave him such a large place in the history of the state and in the affairs of the nation?

The classification of men is a very difficult task, and yet is one we almost unconsciously perform. It is not simply the result of our judgment after a careful analysis of character. It largely belongs to our intuitions. What a man is, is the final impression he makes on the world, rather than what he seems to be. Genuine manhood is certain, in the end, of recognition. This then we place at the foundation of his character: large, forceful and stalwart manhood. Every way, he was a strong man. He had the "vis viva scotorum," characteristic of many of the grand men of his nationality. He had all the rugged strength, bodily, mentally and morally, of

"Caledonia's stern and wild,  
Land of the mountain and the flood."

"The elements were so mixed in him, that nature might stand up and say to all the world, This was a man!"

Versatility was another element in his make-up. His genius was many-sided. He had a diversity of gifts and talents not often found in the same person, and apparently antagonistic to each other, but in him they were harmonious in their operations. He had the student habit, loved to be with his books; had the literary instinct; was a master of the queen's English. Then he was a man of affairs, with great executive ability; the pen and the sword, in his hands, were both powerful. Then he was at home in the halls of congress as well as on the field of battle, or in his library conversing with the great minds of all ages, or writing a book himself; and this suggests another attribute that must be ascribed to him: He was a clear, profound, and, in the best sense of the term, an original thinker, especially on all subjects of religion, morals, general politics, economics, and civilization. His information was extensive, and his acquisitions in large sections of the sphere of knowledge were phenomenal; but all this material was utilized and molded into new forms and creations by his own mental energies. He pierced into the very heart of a subject, not so much by a formal process of reasoning, as by an intuitive discernment.

He was also blessed with a capacious and powerful memory, quick to acquire, retentive and tenacious, and at all times ready to respond to any demands made upon it. I know it is the fashion nowadays to underrate this faculty, and to regard it as a kind of physiological adjunct to the intellect, and hardly entitled to be ranked among the intellectual powers. This is not the time nor the place to discuss this question; but I simply say, and history and philosophy confirms it, that no man can be truly great who has not a great memory. Our deceased brother had this in a remarkable degree. And hence, with his gift of language and social nature, he was a superb conversationalist. It was delightful and in-



structive to listen to him as he poured out a full stream of reminiscences of men and things, or recounted the struggles and the triumphs of his own personal history. This accomplishment gave rise, with prejudiced and superficial critics, to the charge that he was an egotist. The same charge was brought against Charles Sumner, with just as little reason, whom, as we have said, he in some points resembled. It is true he was fond of speaking of the part he had borne in public affairs; but what man ever lived, who had been long in public life, and who had arrived at the age when retrospection becomes a habit of the mind, who did not often speak of himself and of what he had said and done? If we listen with delight and respect to the aged veteran who

“Shoulders his crutch and shows how fields were won,”

why censure the veteran statesman who recounts his exploits and hard-earned victories? The fact is, his critics confound two things which are different, egotism and egotism. He had the former and not the latter. He had achieved success, overcome formidable opposition. Why should he not have some confidence in his own powers? Egoism is an element in all great personalities. Another trait in the character of Colonel Phillips we need only mention. It was known and read of all men, and that is his indefatigable industry and intense application in every department of activity to which he turned his attention. What he did he did with all his might, and he was always at it. Genius can accomplish nothing without industry. Success in public life more frequently depends upon industry than upon natural ability. He had both, and, of course, he was successful in all that gave grandeur to human life.

Colonel Phillips was pre-eminently true to his convictions of right. By this sign he conquered. He was a man compacted of positives, invariably clear in opinion and firm in attitude. He was a column mortised in a rock, find him where you might. Because he thus stood immovable on immutable principles, we have the rounded effect of his entire life, which was that of strength. He did not stop to consider whether the position he took would bring favor or reproach. We have a fine illustration of this, when commander of his military district, in his unflinching and uncompromising opposition to a ring of conscienceless men who sought to steal themselves rich by gigantic frauds and peculations.

“Faithful found  
Among the faithless, faithful only he,  
Among innumerable false, unmoved,  
Unshaken, unseduced, unterrified;  
He loyalty he kept, his love, his zeal;  
Nor number, nor example with him wrought  
To swerve from truth, or change his constant mind;  
Though single.”

He was honest in the broadest meaning of that good old Roman word. He was himself upright, free from tricks and fraud; and hence his continuous hatred and aggressiveness against all such operations in the military or civil service. That he had his imperfections, he would be the first man to admit. Even the greatest intellects have their limitations. The most saintly among the sons of men have their shortcomings. Of him we may say, as the Scotch poet said of his father,

“Even his failings leaned to virtue’s side.”

While a man of stalwart honesty and moral convictions, with advancing years he became more youthful in spirit. He was constitutionally optimistic, buoyant, and hopeful. He was thoroughly and truly an American. He believed in his



country, in her unity, her grandeur, her ideas, and her destiny. He was an idealist, and trusted the future. To his far-reaching vision it was always true that

“Every gift of noblest origin  
Is breathed upon by hope’s perpetual breath.”

His spirit was of the morning, and “his face was radiant with the sunrise he intently watched.” He saw in the future of America a noble and puissant nation—an example to all nations, as “the land of the free and the home of the brave.” He had faith in

“That God who ever lives and loves,  
One God, one law, one element,  
And one far-off divine event  
To which the whole creation moves.”

This leads me to add that, in an analysis of the character of Colonel Phillips, the religious element could not be omitted. This is the crowning excellence of every true life.

“The Christian is the highest style of man.”

He was a firm believer in divine revelation, made a profession of his faith in the Redeemer in early life, and was a member of the church for over 30 years. Like Scotch people generally, he was rather reticent as to his religious feelings and experiences. In relation to this point we are reminded of a striking remark made by Mr. Blaine, in his eulogy on General Garfield, who had this characteristic, “that in the noblest minds there is a feeling of delicacy which forbids exposing to public view the deepest and most sacred feelings which enter into the very essence of our personality.” However this may be, we know that the criterion is, “By their fruits ye shall know them.”

#### OTHER OBITUARY REMARKS ON COL. WM. A. PHILLIPS, AT THE ANNUAL MEETING, JANUARY 16, 1894.

BY CLIFFORD C. BAKER.

It has been my good fortune, sir, not only to enjoy the friendship of many men of Kansas more nearly my own age, but also to be the recipient of advice, attention and kindness from many others whose heads have whitened during their struggles in this state. In view of this fact, and also because I held Colonel Phillips in great esteem, I hope you will not deem me presumptuous if I ask to now occupy a few moments of the time of this annual meeting. It seems to me, Mr. President, that, while we may each feel a sadness that our friend is not with us to-day, yet there is nothing for our grief to feed upon. Colonel Phillips had rounded out a life of great usefulness, having served his country as soldier, statesman, and author, and while doing these brave duties had not neglected those gentler yet braver obligations of the private citizen. He was never too busy to listen to any appeal, to give from the ripeness of his judgment valuable advice, or to speak an encouraging word to a struggling junior. His was an energetic spirit as well as a kind one, and industry was his watchword. Although he had reached that age when the shadows on the hillside of life are grown longer, and seem to lie darker than when youth renews effort that may have grown weary, there never was one hour when discouragement had possession of his faculties. His great brain was not less active than his physique was powerful. He was a scholar and a thinker, and his mind never absorbed a thought without broadening and elucidating what it had received, more clearly than the average man of his attainments.





I knew him first as one of my father's friends, and received from him many encouraging words when I was learning to do newspaper work. In later years, and not long ago, it seems to me, soon after he had provided himself with a comfortable home near the city where he had so long lived, he urged me to come up and spend some time with him. The house was not quite ready for visitors, he said, but he would like to have me come as soon as it was completed, and see how he had prepared for his declining years. It was a promised pleasure on which I dwelt with much anticipation, but it was never realized. Other matters, more pressing, claimed my attention, and it was postponed, until now, alas! it is too late.

The intellect which directed his judgment, the heart which nurtured kindness, the hand which was always extended to aid, are cold in death. But the good deeds of his life are fresh in our minds and we mourn his absence from our midst. May the example of his life be as beneficial to the generations which follow him as the purity and unselfishness of it so eminently qualify it to be.

BY E. B. COWGILL.

When to-day the writer looked into the faces of men who have assisted from the first in making Kansas history; men who came to our prairies seeking less their own advantage than the establishment of freedom; men who experienced the thrill of the triumph of right and were not cast down when right succumbed to wrong; men who suffered from the midnight raid and saw their homes sacked and were yet undismayed; men whose characteristics are summed up by saying that they were from the beginning of our state's history, and are to-day, typical Kansans; when today their kindly voices, their beneficent mien, their considerate attention to others' views and to others' interests bespoke their manhood; when their gray hairs, their deep tones, their spectacled eyes, yet their alert bearing and their manly presence, suggested the fifties—then the writer remembered the abolition community in Iowa; John Brown and his men; the underground railroad; the escaping fugitives from slavery; the anxiety for news from Kansas—news which came by way of New York, conveyed by the New York "Tribune," whose correspondent seemed never afraid, always alert, always present where history was being made. That the Kansas correspondent of the "Tribune" should become a hero in the eyes of the boy just beginning to read newspapers is not surprising, and though a nameless hero he was none the less real, none the less grand, none the less ideal—a man of nerve, discretion, kindness of heart, devotion to the cause of freedom, and a believer in the ultimate triumph of the good in humanity.

Years later, while rummaging through the books of a law library in Ohio, the writer found a book of fascinating interest—"The Conquest of Kansas." It is a book which may well be placed in every library in the land. It is a graphic record by an eye-witness, and often participant, of the earlier struggles for freedom in the United States. It is more; it is the portrayal of events of moment to the civilization of the world. Perhaps the men who are here to-night, and who were in the scenes described, know of inaccuracies in the account of details; but not a reader of the writings of William A. Phillips but will accord him a lively conception of the situation; a ready pen in describing what he saw; an honest purpose in recording events; a broad humanity in the philosophy of his reasoning, a hope and confidence in the triumph of the right which now reads like prophecy. No better illustration of this can be produced than the closing paragraphs of this remarkable book, written by Mr. Phillips and published in Boston in 1856. After



describing the conquest of Kansas by the forces which favored the extinction of human slavery, he said: "But if the war of extermination is begun, it will prove the war of freedom. The suffering settlers in Kansas have been driven to extremity and are now nerved to fight. Kansas was settled in great part by a peace-loving people; a people in whom delicate sentiment, and a refinement which hates the horrors of blood, are strongly rooted. Imagine an over-sensitive Englishman moralizing over the dead body of a Russian whom he has slain in the trenches of Sevastapool, and you have a picture of the free-state settler in Kansas, contemplating the horrors of a civil war, which he would suffer much to avert. They have suffered much, perhaps too much, to avert it; they appeal from their wrongs to the great American brotherhood to right these wrongs. In the vindication of justice peace may yet be secured, but without it there will surely be war and bloodshed, and with these the triumph of freedom; for

'Freedom's battle once begun,  
Bequeathed from bleeding sire to son,  
Though baffled oft, 'is ever won.'

"Kansas, the Italy of America, the debatable ground, has still much to tempt. Landscapes of unsurpassed loveliness, a soil of unmatched fertility, with the richest natural elements, exhibit the value of the future empire whose fate was tossed recklessly by unscrupulous politicians in the scale, to vibrate between the conflicting claims of freedom and slavery. There is a healthy freshness and vitality in the atmosphere of Kansas as favorable to pulmonary weakness as the table-lands of Mexico. As you inhale the vigor-giving breezes, you acquire a nerve and elasticity, in the possession of which you might forget that the rights of American freemen had been subdued, in order that slavery might be planted upon its soil; or, if it cannot make you forget this, it may inspire you with the thought that freedom can conquer what she has lost. What matters it that free speech and a free press are 'treason' in Kansas? What matters it that the judiciary is the obedient servant of slavery? What matters it though federal troops hold in their iron grasp the Kansas that Missouri conquered? There is, thank God, still a spirit and vitality in the American character which will rise above all these obstacles, and will yet write '*Resurgam!*' on the tomb of Kansas liberty."

Such were the brave and hopeful, the prophetic words of Mr. Phillips during the darkest hour of Kansas history; such the spirit that animated her sons in '56; such the spirit which has placed Kansas in the lead of moral, intellectual forces, and has given the state a prominent place in every moral and physical contest with oppression and wrong. Sooner, perhaps, than Mr. Phillips anticipated came the shock of war; the flowing of blood; the establishment of freedom not only in Kansas but throughout the country. And in commemorating his services here to-night his friends rejoice equally at his active and conspicuous part in making the history of his times, and also that he lived to see the fulfillment of his prophecy, and to enjoy on the prairies of Kansas for many years the fruition of his labors and conflicts; the fulfillment of his fondly-cherished dream of the triumph of right.

---

BY COL. DANIEL R. ANTHONY.

My first acquaintance with Col. William A. Phillips was through the columns of that great journal, the New York "Weekly Tribune," edited by that great editor, Horace Greeley. I first met him 37 years ago. My admiration of his writings, of the bold and firm stand taken by him in favor of free Kansas and



against the slave power, had been a living fact of more than one-third of a century. That unbroken friendship existed between us from our first introduction to the day of his death.

He loved his fellow men. He believed in the dignity of labor, and his whole life was devoted to the upbuilding of labor and equal protection to all. While not a full believer in the orthodox dogmas of the church, he was in a higher sense a Christian. His veneration for a supreme being was manifest in his love of mankind.

There is no man living in Kansas to-day who did more for the cause of human freedom; no man living who has performed a greater work in the interests of free labor; no man living who has done more to crush out slavery and the hateful curse it left behind; no man living who had greater power with the pen than William A. Phillips. There is no one to take his place. The state of Kansas and the nation mourn his death.

---

BY J. B. McAFEE.

I made the acquaintance of Col. William A. Phillips immediately on his arrival in Leavenworth, in 1855. He was the correspondent of the New York "Tribune." In 1856, when the congressional investigating committee visited Leavenworth, he did more than almost any person in furnishing them names of important witnesses. On account of his efforts and labors in this direction, and the further fact that he was the trusted and vigilant correspondent of that greatest of free-state papers, the New York "Tribune," he became very obnoxious to the "law and order league," a sugar-coated name for border-ruffianism. He sought shelter and safety several nights amid the plum-bushes and grapevines between the city and the fort to escape their vengeance, and finally had to appeal to John Sherman, of Ohio, and Howard, of Michigan, two of the congressional committee, for protection, while aiding them in their work. The deputy sergeant-at-arms of the United States house of representatives and his assistants occupied the up-stairs of my house in Leavenworth for their sleeping rooms and the rendezvous for their runners and witnesses, and Colonel Phillips often sought shelter with them.

I knew Colonel Phillips well in the army, and served under him from March to October, 1863, at Fort Gibson, Indian territory. He was a most active, vigilant officer, and strictly honest.

The colonel had the cavalry gather in from the surrounding country, the cattle running at large on the prairies, the beef supply for his command costing the government nothing. Parties interested more in their own financial success than in the success of the government had a beef contractor sent to the command who proposed to secure the cattle just as they had been heretofore, but to charge the government a large price for the beef. Another party proposed to supply the horses necessary for the cavalry service in the same way, and proposed to divide the profits, which would be very large, as it would be all profit. The colonel ordered him from his presence, and told him if he ever came to him again with such a proposition that he would put him in the guard-house. The opportunity for making money in this command was perhaps greater than in any other. He positively forbid any parties receipting for or charging for forage not actually received or provided. The colonel positively refused to accept of one dollar of ill-gotten gain or to permit officers or others in his command to do so. At one time, under great provocation, the colonel expressed himself in language more emphatic than orthodox, and one



of his officers expressed his surprise at his language and immediately started to leave his presence, when another officer entered. The colonel, addressing the incoming officer, said he had just been reprimanded for an adjective he had used, when the retiring person said he had not presumed to reprimand his commanding officer. The colonel promptly replied, "If not, you are just doing your duty."

On another occasion a certain performance took place on the Sabbath day, and the colonel was present a few minutes and did not stop it; a visiting chaplain saw it or knew of it, and in his sermon that night, in the old post chapel, referred to it in rather scathing language. I saw the colonel was present, and watched his eye with care, wondering what he would say, if anything. When the service was over I introduced the chaplain to him. He thanked the chaplain kindly and heartily, and said, "Our best friends are those who tell us of our faults." Sutlers were determined to bring whisky into the command, and sought every kind of device to smuggle it into camp against the colonel's positive orders. An Indian takes as naturally to whisky as a young duck to water, and the presence of whisky in camp was soon discernible on the Indians. The individual engaged in the liquor traffic was soon caught, tied up by the thumbs, 40 lashes less one administered with a black-snake whip on the bare back, goods confiscated and sold at auction, and proceeds turned into the hospital. Such severe treatment was an absolute necessity, for drunken Indians were uncontrollable. Col. William A. Phillips was an able, honest, upright man, a good citizen, a true patriot, and a careful, prudent, but courageous commanding officer.

---

BY JOHN SPEER.

We have met at this annual meeting of the State Historical Society under the most sad and disheartening circumstances. What has usually been an assembly of merry hearts, with the pleasurable emotions of hope for joyful reunions, and joviality of congratulations over the past history of our noble commonwealth, has been turned into gloom, not only for the statesman, patriot, and hero, Hon. William A. Phillips, whose memory has been so appropriately recognized by his pastor in an address which is at once a eulogy on his patriotism and a sermon on his Christian virtues, but there is added to these solemnities the knowledge which comes to us of the serious illness of another distinguished member of this Society, Hon. T. Dwight Thacher. He has been stricken down apparently in the bloom of health. One of his last literary efforts, if not the very last, was a partially prepared address on the life, character and public services of his friend, who has so recently gone before us all. While there is life there is hope, but the last news from his bedside and from his physician admonishes us that he even now may have passed into the shadow of death.\* To his intimate friends, this news and the reading of the paper which he had purposed delivering himself, his pungent paragraphs and his brilliant editorial articles on the topics of the times past, and his logical, eloquent addresses from the forum, almost seem ringing in our ears.

My first acquaintance with Mr. Phillips was on hearing a resolution read in the Topeka constitutional convention, extending to him the courtesies of that body, and inviting him to a seat at the reporters' table, where I then sat. His courage became proverbial. Of that staunch Scotch Presbyterian ancestry

---

\* Mr. Thacher died January 17, 1834.





which made the love of mankind next to the love of God, his anti-slavery ideas were instilled into him with the Westminster confession and catechism, and he too was hunted, as were his ancestors by Claverhouse when they worshipped in glens and caves. Confidently trusted by Horace Greeley, he proved the good judgment of the white-hatted philosopher in his every act, and the "Tribune" became his biography for the Kansas territorial period. His great character has been too well exemplified by those who have preceded me to require more than a passing tribute from me. In him, a great man has fallen, and the whole state laments the loss.

One by one the men who were identified with "the times that tried men's souls" are passing away. As they go, however, we are reminded alike of duties undone, and spurred to activity in the great work which has done so much for our state. We look upon you, Mr. President, and upon that plodding book-worm by your side, our Secretary, and are reminded that, unless the people hold up your hands in your labors, they cannot expect that industry and perseverance which have characterized the work.

We have lived in an age of opportunity. The crisis was upon the infant colony. The wage of battle was upon us, and the occasion inspired men to deeds of valor, until "they builded better than they knew." An oligarchy of tyranny was supreme. The great strength of slavery was untried. None knew and few prophesied what was in the future—the flow of blood, the millions of treasure, when the little band of earnest men, the leaven which leavened the whole lump, set their faces firmly and nerved every energy against that system which the great Wesley had denounced as "the sum of all villainies." They were men of iron will. They had instilled into them the idea that God was no respecter of persons. Since the father of Hannibal swore his son upon the altar of God to "eternal hostility against the Romans," there never was a more solemn oath than that taken, after the first invasion and prostitution of the ballot-box, to "do and to die" in resistance. The eve of winter was upon them, and a wilderness darkened by that relic of barbarism lay between us and the opening light of a better civilization where the martyred Lovejoy fell, with no eye to pity and no hand to save. Some of these philanthropists were learned and some of them were unlearned; but even the Indian, Tooley, whom I met on the road, when he uttered his encouraging words, "God make white man, God make red man, God make black man, but God never make slave," seemed as divinely inspired as Saul when he fell down at Damascus, and was a greater divine than any theologian who ever quoted Saul's return of Onesimus to his supposed master.

To-night, as we look upon the tablets upon these walls in memory of some of the men who died, and others who were ready to die to make Kansas free, this seems like holy ground, and their names will become as illustrious as the Gracchi, whose pictures the Greeks were wont to take their children to look upon on festive occasions, that they might emulate their virtues.

The little spark, flickering for a time, has burst forth with meteoric brightness. The tyrannies of the world have relaxed before examples of American emancipation. Does anybody suppose that if Abraham Lincoln had relaxed before the emissaries of darkness, and allowed the whole country to have been blackened with human bondage as a condition of union, that great Frenchman would have mocked heaven by a presentation to our country of that great statue of "Liberty Enlightening the World"?

"There's a divinity that shapes our ends,  
Rough-hew them how we will."



I speak no partizanship in these utterances. That period has changed. The civilization of the South, that better civilization, at least, which has grown out of and away from the mossback era of ante-bellum days, is now upon us. Other issues divide us, but no man raises his voice and asks that some Paul shall send his slave Onesimus back to his master. He would not own him. The fossils of humanity do not even tell us that that subject is too old. It is a proper theme to speak on to youth in illustration of the goodly contrast with the bad, and as welcome a theme on the forum of political economy as is the story of the cross of Moses in the pulpit.

Our enemies bless us. At a recent celebration of the day on which General Jackson repulsed and whipped the British at New Orleans, that great southern statesman, Henry Watterson, used the fact that Abraham Lincoln made the offer of reconciliation by payment for the slaves to illustrate and enforce his argument, and represented its rejection as the great mistake of the age. In New Orleans, but a short time ago, I walked out but a few steps from the great St. Charles hotel, and there stood a granite monument in heroic size. It bore no name; it needed none. The broad mouth, the classic face, bespoke the name of Henry Clay. It had an inscription, and I stood bewildered as I read, deep cut in the everlasting granite: "If I could be instrumental in eradicating this deepest stain, slavery, from the character of our country, I would not exchange the proud satisfaction which I should enjoy for the honor of all the triumphs ever decreed to the most successful conqueror." I was dazed! How came it there? It is said Butler made that inscription. No matter. It stands in the midst of that great city, the true utterance of Henry Clay—the counterpart of Bartholdi's statue in New York harbor. If Henry Clay ever uttered the prayer of Job, "Oh that my words were now written! oh that they were printed in a book! that they were graven with an iron pen and lead in the rock forever!" his prayers have been fully answered. It is indeed "better to be right than to be President." There it stands, with only one inscription greater, and that was written, "Jesus of Nazareth, the king of the Jews," and when the crazy multitude demanded of Pilate that he should write, "He said he was king of the Jews," the affrighted Pilate said, "What I have written, I have written." What Butler has written he has written:

"Exceeding peace had made Ben Adhem bold,  
 And to the presence in the room he said,  
 'What writest thou?' The vision raised its head,  
 And, with a look made all of sweet accord,  
 Answered, 'The names of those who love the Lord.'  
 'And is mine one?' said Abou. 'Nay not so,'  
 Replied the angel. Abou spoke more low,  
 But cheerily still; and said, 'I pray thee, then,  
 Write me as one who loves his fellow men.'  
 The angel wrote and vanished. The next night  
 It came again with a great wakening light,  
 And show'd the names whom love of God had bless'd,  
 And, lo! Ben Adhem's name led all the rest."

BY JAMES F. LEGATE.

He made all out of it he could for the welfare of mankind. I do not mourn his death. Death comes to us all, and should be mourned in my opinion only when life, if retained, could do something more for mankind. He lived to be 70 years old. Many of us are nearly at that point, and some of us are past it. If we are not ready we are foolish. What there is left are the works we have



done. If these works commend us to our friends and to the future, it is well. If they fail to do so, it is ill. Mr. Phillips was a man of permanent convictions, and his convictions he followed with an iron will. He followed those convictions unless he could be reasoned out of them. His convictions were the results of his own mind. Following them with an iron will, he has left his mark upon the world. His name is on the scroll of history, where it cannot be blotted out. Let him rest, and let us profit by the good things of his life, and it is well. He has done his work. He has passed away, leaving only what he has said and done, and by what he has said and done history will not forget him.

---

## TIMOTHY DWIGHT THACHER.

(The following wholly inadequate biography of T. Dwight Thacher has been compiled from various sources. No sufficient biography has ever been written. The Kansas State Historical Society owes it to the memory of one of its founders, and one of its most faithful members and strongest pillars when it most needed support, that a full and complete biography of Mr. Thacher should be written and published in its collections.)

Timothy Dwight Thacher was born in Hornellsville, New York, October 31, 1831, and died at his home in Topeka, January 17, 1894. He came from a New England stock, his ancestors being distinguished as scholars and patriots in the "land of the Puritans" throughout generations running back to the day of Rev. Thomas Thacher, who landed in Boston on June 4, 1635, and became pastor of the Old South Church in 1669, remaining such until his death. This worthy was one of the most distinguished men of his time, a great scholar, and an eminent physician, the author of the first medical work published in New England, and the compiler of a Hebrew grammar and lexicon.

Mr. Thacher's father was a farmer, a self-educated man, of culture and worth, and universally respected. Possessing as a lad an aptitude for study, Mr. Thacher, at the age of 20 had obtained a fair academic education, which he afterwards improved by a course at Union College, Schenectady, N. Y., entering the junior year, and graduating with honors in the class of 1856.

During this period Mr. Thacher took a lively interest especially in political history. He was among the foremost debaters in the college societies, and had achieved no little reputation as a speaker, venturing even beyond the college limits to address assemblages in the interest of the great issues of the day. It was a time to awaken thought and to quicken the pulses of young manhood. The great political campaign of 1856 was in full progress before Mr. Thacher graduated, and he was frequently called upon to speak at the mass-meetings held by the young republican party in that section of the empire state. All was at the white heat of enthusiasm. The fires had been kindled; a wave of public sentiment created, which four years later bore the republican party into power with the immortal Lincoln.

It was at this point, while Mr. Thacher was settling his future course of life, and contributing in an amateur way to eastern journals, that, through some former schoolmates then living at Lawrence, Kas., he received an invitation to locate in that city and take the editorial charge of the Lawrence "Republican," a free-state paper which was to be established. This was something wholly apart from the life that he had sketched for himself. But the voice came to him almost as to young Samuel—in the form of a command. He heard the cry borne eastward from the earnest, liberty-loving souls engaged in



the work of freedom on the Kansas prairies, and he could not hesitate. Taking counsel with a valued friend, a college president, that worthy said: "Go, my son; you may do more good there in a few years than you could to stay here all your life." This decided his course.

Arriving in Lawrence in April, 1857, he at once entered heart and soul into the effort to make Kansas a free state. The Lawrence "Republican," established by and for him, was soon issued.

It was a radical republican sheet from beginning to end. Its editor regarded the struggle in Kansas as involving not alone the destiny of the infant territory of Kansas, but virtually that of the entire system of chattel slavery in the United States. He plunged into the contest without any reserve. Some weeks he wrote nearly a whole broadside of editorial matter, discussing the questions of the hour from every standpoint. The paper at once assumed a leading position in the territory, especially in southern Kansas, being taken in every neighborhood, and its doctrines finding an enthusiastic following. It was not only a free-state paper but a republican paper, not only a republican paper but a radical anti-slavery paper, on the ground that slavery was a cruel and everlasting wrong, and ought to be abolished.

During that year Mr. Thacher attended most of the numerous conventions of the free-state party. At the one held in Topeka in June, 1857, an interesting and peculiar incident occurred. Gov. Robert J. Walker was engineering at that time the pro-slavery movement for the formation of the Lecompton constitution, and was urging the free-state people to take part in the election of delegates to the constitutional convention—something which the free-state men had resolved to have nothing to do with. The governor had driven up in state from Lecompton to see what was going on. During the afternoon he drove upon the grounds where the free-state convention was being held. Just as he drove up in the rear, partially, of the speaker's stand Mr. Thacher was addressing the convention upon this constitutional movement, and in entire ignorance that the governor was on the ground and within hearing of his voice, exclaimed, "And here comes Governor Walker and says to us." At this point some one sung out, "Yes, here he comes, sure enough!" and all eyes turned to the governor, where he sat in his carriage. The speaker, however, in nowise disconcerted, went on with his remarks, and gave the governor's position a severe overhauling from the free-state point of view. The governor remained a respectful listener until the speech was finished, and then left the grounds.

During this summer Mr. Thacher made an extensive tour through southern Kansas, speaking in the main settlements, organizing the free state party, and scattering the truths of republicanism among the people. In many places he made the first distinctively republican speeches that had ever been delivered.

During the winter of 1857-'58 the free-state territorial legislature provided for the assembling of the constitutional convention which met first at Minneola and then adjourned to Leavenworth, and framed what is known in our history as the Leavenworth constitution. Mr. Thacher was elected as one of the delegates to this convention from Douglas county. It was one of the ablest bodies in our history. It had among its members such men as Gen. James H. Lane, Thomas Ewing, jr., Martin F. Conway, P. B. Plumb, Sam. Wood, J. S. Emery, Doctor Davis, H. P. Johnson, A. Larzelere and others. The main bone of contention in the convention was as to the admission of the word "white" into the constitution. Over this long and furious debates raged, and





the work of freedom on the Kansas prairies, and he could not hesitate. Taking counsel with a valued friend, a college president, that worthy said: "Go, my son; you may do more good there in a few years than you could to stay here all your life." This decided his course.

Arriving in Lawrence in April, 1857, he at once entered heart and soul into the effort to make Kansas a free state. The Lawrence "Republican," established by and for him, was soon issued.

It was a radical republican sheet from beginning to end. Its editor regarded the struggle in Kansas as involving not alone the destiny of the infant territory of Kansas, but virtually that of the entire system of chattel slavery in the United States. He plunged into the contest without any reserve. Some weeks he wrote nearly a whole broadside of editorial matter, discussing the questions of the hour from every standpoint. The paper at once assumed a leading position in the territory, especially in southern Kansas, being taken in every neighborhood, and its doctrines finding an enthusiastic following. It was not only a free-state paper but a republican paper, not only a republican paper but a radical anti-slavery paper, on the ground that slavery was a cruel and everlasting wrong, and ought to be abolished.

During that year Mr. Thacher attended most of the numerous conventions of the free-state party. At the one held in Topeka in June, 1857, an interesting and peculiar incident occurred. Gov. Robert J. Walker was engineering at that time the pro-slavery movement for the formation of the Lecompton constitution, and was urging the free-state people to take part in the election of delegates to the constitutional convention—something which the free-state men had resolved to have nothing to do with. The governor had driven up in state from Lecompton to see what was going on. During the afternoon he drove upon the grounds where the free-state convention was being held. Just as he drove up in the rear, partially, of the speaker's stand Mr. Thacher was addressing the convention upon this constitutional movement, and in entire ignorance that the governor was on the ground and within hearing of his voice, exclaimed, "And here comes Governor Walker and says to us." At this point some one sung out, "Yes, here he comes, sure enough!" and all eyes turned to the governor, where he sat in his carriage. The speaker, however, in nowise disconcerted, went on with his remarks, and gave the governor's position a severe overhauling from the free-state point of view. The governor remained a respectful listener until the speech was finished, and then left the grounds.

During this summer Mr. Thacher made an extensive tour through southern Kansas, speaking in the main settlements, organizing the free state party, and scattering the truths of republicanism among the people. In many places he made the first distinctively republican speeches that had ever been delivered.

During the winter of 1857-'58 the free-state territorial legislature provided for the assembling of the constitutional convention which met first at Minneola and then adjourned to Leavenworth, and framed what is known in our history as the Leavenworth constitution. Mr. Thacher was elected as one of the delegates to this convention from Douglas county. It was one of the ablest bodies in our history. It had among its members such men as Gen. James H. Lane, Thomas Ewing, jr., Martin F. Conway, P. B. Plumb, Sam. Wood, J. S. Emery, Doctor Davis, H. P. Johnson, A. Larzelere and others. The main bone of contention in the convention was as to the admission of the word "white" into the constitution. Over this long and furious debates raged, and



the radicals, led mainly by Mr. Thacher, triumphed, and kept the word "white" as a qualification of voters out of the document, thus anticipating the doctrine to which the whole party was brought after the war.

During the summer of 1858 Mr. Thacher stumped the territory against the English bill, and contributed to roll up the splendid majority under which that measure was buried.

In the spring of 1863 Mr. Thacher purchased the "Journal of Commerce" in Kansas City, to which place he removed, continuing its publication until 1865, when he disposed of his paper, removing to Philadelphia, Pa., in which city he took a position upon the staff of the "Evening Telegraph." But it was too late. The nameless chain that Kansas casts upon all who have once been dwellers upon her soil was upon him, and from which he could not escape. He returned in 1868, and relocated in Lawrence, the city of his love and labors, and re-established the Lawrence "Republican," which had been destroyed in the Quantrill raid. In the spring of 1869 he consolidated the "Republican" with the "Kansas State Journal," and the Ottawa "Home Journal," under the name of the "Republican Daily Journal," which paper he has since conducted.

In 1874 Mr. Thacher was elected on the republican ticket to the house of representatives for the Fifty-second district, Douglas county. In the house he served as chairman of the committee on education. Without solicitation, and without having been a candidate, he was nominated by the republicans of the legislature for the position of state printer, but a part of the republicans refusing to go into the caucus, he failed of an election.

Without the name of T. Dwight Thacher the early history of Kansas could not be written. He was in turn an able editor and guide of the people; delegate, presidential elector, representative, presiding officer, leader of his party, moderator of religious assemblies—ever consistent in his course, bold, unsparing, and ever the watchful guardian of the liberties of the young commonwealth. Positions of honor and responsibility were his in turn by the score.

As a writer Mr. Thacher was condensed, argumentative, brief and pungent. As a speaker he was impassioned, ornate, logical, and magnetic. His services were freely sought and freely given in all great campaigns. He was equally at home in a country schoolhouse, before a handful of hearers, or in the presence of a mass-meeting of thousands. He combined in a rare degree the man of education and of affairs. He was a close and accurate student, and a thorough business man. A member of the Congregational church, he was broad and catholic in his religious views, careless of creeds, and full of faith in the progress of the race. A well-read lawyer and a member of the bar, he delighted in the discussion of political principles and of the great practical questions of every-day life. Unambitious of public station, he strove to do the duties of the hour with fidelity and dispatch.

On the 18th of January, 1881, Mr. Thacher was elected state printer in joint convention of the two houses of the legislature, for the term of two years, beginning July 1 of that year. He was twice re-elected, serving six years in all, his last term ending June 30, 1887. In his position of public printer he gave great satisfaction. On his first election he removed with his family from Lawrence to Topeka. After his retirement from public office, he entered actively into business in Topeka. He was a public spirited and enterprising citizen, active in the promotion of every good work.



## ON THE BATTLE OF WILSON CREEK.

An Address Delivered by HON. ALBERT R. GREENE at the Annual Meeting of the Society,  
Topeka, January 15, 1895.

At sunset of a torrid day in August, 1861, an army of 5,000 men marched out of the town of Springfield, Mo., to meet an enemy believed to outnumber it as four to one.

The little army was composed of volunteers fresh from the avocations of peace, and "regulars" who, though long in service, had, with few exceptions, save as to their officers, never engaged in battle or been under fire. The former were officered by old acquaintances and neighbors, who had generally been elected by the men to the positions they held, and who, like themselves, knew little of the science of war. They were from Iowa, Kansas, and Missouri, and the range of their experience in the use of fire-arms comprised the usual exploits of frontiersmen in the game-fields of the forest and prairie, with an occasional skirmish against border ruffians in the Kansas troubles. They were marksmen in a general way, and might be said to be handy with the rifle and revolver. A majority were young men or boys; middle-aged men with bearded faces were rare exceptions. The few there were had generally seen service in Mexico, a dozen years before, or in European armies when they were boys.

During the three months of service in the union army they had been constantly in the field, marching, camping, drilling, foraging, and enduring restively the privations and restraints common to recruits. They had, on one or two occasions, seen small bodies of the enemy, and a few had enjoyed the luxury of a shot at a real rebel; but the standing bet, with no takers, was, that the war would be over before they would see a battle. This fear, growing with each day's fruitless march, greatly depressed their spirits, and created a feeling of discontent and irritability. Now, however, when it was morally certain that a battle was at hand the enthusiasm all came back, and manifested itself in copious jokes and ebullitions of song. The Iowa boys sang of "The Happy Land of Canaan" and "The Belle of the Mohawk Vale," while the Kansas favorite was a beastly parody of a good old Methodist hymn, and ran something like this:

"Am I a soldier of the boss,  
A follower of Jim Lane,  
And shall I fear to steal a horse,  
Or blush to ride the same?"

The regulars jogged along in comparative silence. Though perhaps no less patriotic, they were nevertheless professional soldiers, at home as much in one place as another, and contented to march a reasonable distance in a day or night in any direction, and fight about so hard and so long whenever called upon, as a matter of course.

Between these and the volunteers there was a mutual feeling of unfriendliness and aversion. Neither party was willing to dignify the other with an admission of jealousy, but each one did envy the other some of their privileges or possessions—the regulars, the roystering style allowed the volunteers; and the volunteers the superior knowledge and better equipment of the regulars.



This feeling of scant civility and offishness was not confined to the ranks; officers shared it to a greater degree than the soldiers, and harbored it more tenaciously. A good shaking up in battle would blend the ranks wonderfully, but the officers would clash almost like common enemies, both before and after a battle. Each party felt that, while the other might be well enough in his way, their ways were nevertheless so divergent it would be better for them to remain apart.

Besides there was the everlasting bone of contention called "rank." The regular officer who had devoted his life to the service, had fought in the Seminole and Mexican wars, and hunted Indians all over the plains and mountains, felt an inexpressible disgust at being commanded by a man who had been a farmer or a tradesman a few weeks before, even though he now held a rank several grades higher than himself. Whenever they had to submit to this sort of humiliation they were sure to get even at the first opportunity. Meantime, they would wreak a part of their vengeance on the volunteer soldiers. They seemed determined to prove their persistent declaration that "volunteers were of no account."

The same feeling existed between volunteers who had been regularly mustered into the service of the United States and state militia who were in service temporarily. The volunteers persecuted them as they themselves were in like manner persecuted by the regulars.

There is nothing new in this. It was one of Washington's chief troubles in the revolutionary army, and has been a part of every war and campaign. So when it is related that Captain Gordon Granger, of the regular army, sneeringly remarked to Colonel Mitchell, of the volunteers, that his Kansas regiment was nothing but "an armed mob;" that the general himself had said, when annoyed by the singing of the Iowa and Kansas boys, "Singing soldiers won't fight;" that Major Sturgis had caused a number of First Kansas boys to be stripped, bound to a cannon-wheel, and publicly flogged with a mule whip for some trivial offense; when these incidents of Kansas history are recalled, it should be remembered that history was simply repeating itself, and that the ambitions and jealousies of men, which ripen faster in military than in civil life, were but asserting themselves as they had done before, time out of mind. For when it comes to setting squadrons in the field in the actual presence of war, somebody must be pushed aside, and some must needs be run over in the mad rush for glory, when a word may realize or dispel the dream of a lifetime.

The proportion of regulars to volunteers in Lyon's army was as one to four, comprised for the greater part of seasoned troops, representing all arms of the service. Two of his three batteries were regulars, and as good as the best. He had privates in his column who wore service chevrons for four terms of five years each. These old soldiers infused a confidence into the ranks of the volunteers which, in spite of all bickerings, was of the greatest value.

This little army, composed of so many uncongenial, even discordant elements, was the only evidence of the authority of the United States between Rolla and Fort Scott. When it marched out of the town of Springfield to challenge an enemy with more brigades than it had regiments of its own, it had in its keeping the forlorn hope of the union people in all that vast section of country.

This enemy was camped within 10 miles, and was duly making forays within sight of Springfield. Another peril was the rebel army of Hardee, hastening up from the southeast. Circumstances had forced upon Lyon the alter-





native to fight or run away. Something must be done and that quickly. He was advised to retreat. Lyon decided to fight. Better to risk the chances of defeat than precipitate a panic and invite a rout.

A great thoroughfare called the "telegraph road" led directly southwest through the camp of the enemy. His troops were scattered about with more regard to the proximity of corn-fields than any consideration of defense, and his whole course clearly indicated that he had no thought of an attack. By a proper distribution of his forces, the hills and hollows of Wilson creek might have been made impregnable, but there was no military genius displayed—even the universal precaution of pickets had been dispensed with.

It had been Lyon's original plan to march his whole force down this road and strike the enemy a stunning blow in front "and endeavor to rout him before he recovered from his surprise." The council of war adjourned with this plan fully decided upon. Afterwards, at the earliest appeal of Sigel, for whose judgment Lyon had great respect, he abandoned this and decided to divide his force into two columns, and make simultaneous attacks on the rear of the enemy's flanks. Lyon was to attack the left flank and Sigel the right, the former with three and the latter with one brigade, representing the three arms of the service. Lyon's route lay west six miles and then south, and Sigel's south 12 miles and then abruptly west, swinging round to rear of the enemy.

At nightfall the army was concentrated in the streets and ready for the order to march. The town was in utter confusion. Merchandise and household goods were being loaded into wagons to be ready for the worst. The store-keepers and citizens distributed food to the soldiers with lavish hospitality, and wished them good luck in tones which betrayed forebodings of disaster. Lyon rode along the line and spoke to the men. This is what he said, as reported by Eugene Ware, a soldier of the First Iowa: "Men, we are going to have a fight. We will march out in a short time. Don't shoot until you get orders. Fire low—don't aim higher than their knees; wait until they get close; don't get scared; it's no part of a soldier's duty to get scared."

Then the line was thrown into column, the bugles sounded, and the march began. The advance guard was composed of Lieutenant Canfield's company of the First United States cavalry; then came a battalion of infantry, regulars, under Captain Plummer, a classmate of Lyon; then that sturdy veteran, Major Osterhaus, with a detachment of his countrymen singing "Morchen Rote." After a slight interval in the dusty road came Totten's crack battery of six guns, each drawn by four superb horses. Then Captain Sam. Wood with his mounted company of the Second Kansas. Sam. was chewing a paper wad as usual, and talking Kansas. Then came the First Missouri infantry and more regulars, including Du Bois' battery of four guns, one a 12-pounder, and then the third and last brigade, under Colonel Deitzler.

It seemed like delegations from Lawrence, Wyandotte, Atchison, Leavenworth, Emporia and a dozen other Kansas towns on their way to a state convention at Topeka. It would never have been mistaken for a funeral procession. Deitzler, Mitchell, Blair, Cloud, Sam. Walker, Sam. Crawford, were moving back and forth along the column giving orders, interchanging views, visiting, chatting with the men, and having a good time generally. Halderman was working on a series of lurid battle cries which were received with great approval by the hilarious crowd. There was John Conover, adjutant of the First Kansas, a very brave and efficient officer, Jim Ketner, W. Y. Roberts, Caleb Pratt, Frank Drenning, who had won renown in tearing down the rebel flag at Iatan; Frank Swift, the captain of the Lawrence "Stubbs," in the '56



troubles; Newel Spicer, Ed. Nash, and dear Charley Garrett, stuttering out his droll jokes in inimitable fashion; L. L. Jones, of whom Jim Lane had said, a few months before, "This aristocrat, who calls the worthy settlers on Washington creek 'corn-bread eaters,' has the audacity to oppose brother Werter R. Davis for the legislature; Great God!" Jones was one of the first sacrifices in the battle.

How the familiar faces multiply! There is Stockton, Joe Lyon, McGonigal, Powell Clayton, Sherman Bodwell, Albert Knowles, Winans, Sam. McFadden, S. H. Andrews, W. C. Barnes, E. S. Stover, H. L. Moore, a corporal; McClure, Lines, Tom. Sternbergh, Joe. Cracklin; John K. Rankin, for all the world the size and build of General Lyon, and, although an officer, in rags like the rest. He had an old bayonet for a sword, and tinfoil shoulder-straps sewed on with black thread. Officers of higher rank had loaded themselves down with a dragoon sabre apiece, found in the deserted camp of the regulars, and had appropriated more or less disabled gilt braid, wilted plumes, etc., and, thus arrayed, felt themselves elevated to a plane of unapproachable grandeur. Sam Houston was there in all his glory. He had been in the Mormon war, and was on confidential relations with Lyon, Sturgis, and all the regular officers, and was envied in consequence and considered stuck up. Rube. Playford and the Drew and Shuyler boys, who had torn themselves away from the allurements of Burlingame, and Marsh. Murdock, were there also; Lindsay and Cross from Garnett; Dave Sibbett, from Linn county, who had been present when the "bogus" statutes were destroyed, and snatched a volume as a brand from the burning, and hundreds of the old-timers who had rallied at the first bugle call.

The men wore government blouses and socks—those who were not bare-footed—and a miscellaneous assortment of other clothing such as the country afforded. For head gear they had everything, from the range of Jackson's white plug hat at Talladega, to Scott's monstrosity at Cherubusco.

About every other man was sure he would never come out alive. There was much interchanging of messages to be sent to the friends in Kansas, and some were so fully impressed with the belief of their doom that they disposed of their property and made presents, to those who were not so sure of dying, of whatever trinkets they had about them. Lieutenant Jones was one of these; he gave away his pony, and sent word to all his friends in Kansas that they would find him at Wilson Creek! He was shot through the forehead at one of the first volleys.

When the feeling in the ranks would become too solemn, Charley Garrett would take away the sting of death by some casual remark to the effect that the hardest keepsakes for him to part with were his "g-g-g-graybacks."

This was in the days of regimental bands, and a score of musicians of pronounced German features and unpronounceable German names strode stolidly along with brass horns on their necks and under their arms.

After the Kansans came the First Iowa, 800 strong. A splendid regiment, of boys averaging 22 years of age. They wore gray blouses, a circumstance which led to great confusion and some unnecessary bloodshed in the battle. Besides the blouses they had whatever the country stores and farmhouses all the way from Boonville to Springfield happened to have on hand. Their hats were variegated and heroic like the rest. The term of this regiment had been out several weeks, but they had unanimously agreed to "stay by the old man until reinforcements arrived or a decisive battle had been fought."



In the rear was a train of ambulances and ammunition wagons and the hospital outfit.

Sigel's column was composed of Germans mostly, with a company of cavalry and one of dragoons from the regular army.

At the head of the former column, mounted on a magnificent dapple-gray horse, rode a man who, if he had lived, would have become commander-in-chief of the army and afterward president, if he had so desired. He would have been the Grant of the war. A man of medium height, slightly built, a full beard of refractory sandy whiskers, blue eyes, deeply set, and a thoughtful, careworn face. He wore the uniform of a captain of infantry—the same he had worn from the day, two months before, when he had stalked out of the presence of Sterling Price and Claiborne F. Jackson, daring them to a trial of arms. That trial was coming on in a few brief hours.

This was the man who had the military sagacity to see that St. Louis and the Missouri valley were imperiled by the invasion of McCullough and Price. He sent army officers, members of congress and cabinet ministers as special messengers to Fremont to implore for reinforcements, but in vain. Of the 44 full regiments under Fremont's command when he reached St. Louis, it is shown by the records that 10 regiments, aggregating 9,000 men, were doing absolutely nothing, and could have been forwarded to Lyon in time to have reached him a week before the battle. This was not only not done, but the transportation which Sigel, Sweeny and B. Gratz Brown had engaged to carry out the orders of General Meigs of July 6, to "furnish Lyon all the transportation needed," was discharged as unnecessary. When it was absolutely certain that they could not reach him in time to render any service, two regiments, and those the most remote by the route necessary to travel of any in the department, were ordered to Lyon. Colonel Wyman was at Rolla with 1,000 men, and Lyon begged for these, his last message being for "soldiers, soldiers, soldiers;" but the cold-hearted, absolutely selfish and insanely jealous Fremont, the weakest great man this country ever produced, did not deign to answer, and remarked to those about him, "If Lyon fights he will do so on his own responsibility."

This was the man who, abandoned to his fate, set his columns in motion to make one last, supreme effort to rescue Missouri from organized treason.

His body-guard consisted of 10 German butchers, recruited in St. Louis, and noted for their physical strength and superior horsemanship. They were superbly mounted, and were the inseparable attendants of Lyon wherever he went. Their distinguishing mark was gray slouch hats, the left side pinned to the crown, and white plumes.

There were seven major-generals and 13 brigadier-generals in that little army, but as yet not one of them had a higher rank than colonel, and several were captains and lieutenants.

There was silence in the ranks as night deepened, and at one of the many halts the cannon wheels and the horses' hoofs in the advance guard were bound with cloths.

About midnight the column became involved in the brush and ravines of a tributary of Wilson creek. This was at a point two miles in rear of the enemy's left flank. Their pickets had been stationed here, but for some reason had been withdrawn. Price, in trying to explain away the blunder of leaving his army thus exposed, states that it began to rain, and he was afraid his men would get their ammunition wet. At this abandoned picket post Lyon bivouacked his army to wait for day. Quoting again from Ware, he says: "We



could see the sheen in the sky of vast camp-fires beyond the hills, but could not see the lights. We also heard at times choruses of braying mules."

The First Kansas had been paid the day before with money taken from the state bank at Springfield, each man receiving \$10, or rather every other man \$20, and the alternate ones a promise to divide as soon as the money could be changed. This money was something of an embarrassment to the holders of it, and the first division that was made was an involuntary one with rebel vandals on the battle-field.

Lyon and Schofield, his adjutant-general, found a wide crevice between two rocks and laid down side by side. The latter expressed a fear that his companion was not comfortable, but Lyon replied that he was "all right," that he "was born among the rocks." After a while, when Schofield supposed that Lyon had gone to sleep, the general said: "I am a believer in presentiments, and I have a feeling that I can't get rid of that I shall not survive this battle."

When the stars began to pale with the coming day, word was passed along the prostrate ranks to "Fall in and keep silent." Almost instantly the lines were formed and the army was in motion. It now marched in column by companies, the batteries by section, and a line of skirmishers in front, the course being easterly. The country soon became open, and everything in front could be seen distinctly. At 5 o'clock the crack of a rifle was heard and then a number more, far to the front. The battle of Wilson Creek had begun.

The union line was immediately formed, and moved up a slope toward the crest of a ridge where the enemy could be seen forming a line of battle about 1,000 yards away. Totten's guns were brought into battery, and at once became engaged. Almost at the same moment an artillery duel began two or three miles to the south. Sigel had heard the signal and was at work.

The admirable plan for a surprise had not only succeeded, but both wings of the rebel army were being crushed in on the center, and Totten was serving his guns within less than a half a mile of Price's headquarters, where he and McCullough were at breakfast, before those generals had any suspicion that Lyon had left Springfield. Never was a battle begun under brighter promise of victory.

The confederate historian, Sneed, Price's adjutant-general, characterizes the appearance of the rebel army at this time as "a panic-stricken drove." It was coming as fast as men and horses could run from both directions, the fugitives throwing away their arms and abandoning everything in their flight. Staff officers dashed up to McCullough in a frenzy of excitement, and stammered out in the most bewildered and incoherent manner that the federals were covering the prairie and sweeping everything before them with a hundred cannon!

Referring to the action at this time, one of the union officers who had exceptional opportunities for observing the whole situation said: "For a few moments I thought we had won the fight almost before we had begun it, but just then I saw the rebel camp fairly vomiting forth regiment after regiment, until it seemed as if there was no end of men coming against us; they were coming on the left and right and in front of us, in some places in three lines, all on the double-quick, and then I changed my mind."

For six hours from that time the bloodiest fight this country had ever seen raged in that valley and on those battle-scourged hills; and our Kansas men were ever in the front. At last it was to be demonstrated whether volunteer soldiers were of any account; whether singing soldiers would fight, and





whether the men who had been brutally flogged would redeem their good promise to shoot Sturgis at the first opportunity.

The story has been told many, many times, of how the boys fought and died. How on the left and right comrades saw great gaps torn by the volleys, and chums and bunk-mates fall in blood and agony, amid groans and execrations, or in a silence more ghastly and significant. How they went in like regulars, fought like veterans, and conducted themselves, standing or falling, like heroes.

The Kansas contest, in which Lyon and his men had seen the portent of this greater strife, had literally been transferred from the preliminary skirmishes of Black Jack, Franklin, Coon Point and Fort Titus, to Wilson Creek, without any material change of leadership or principles. The trial of the issue that had been joined there had simply been removed, under a change of venue, from Kansas to Missouri—from Lecompton to the hills and hollows of Wilson Creek. The position of plaintiff and defendant had been exchanged, it is true, but the title of the case had not been amended; it was still "the constitution with slavery, or the constitution without slavery." It was the constitution in either case now, as they had once proposed in Kansas.

I have mentioned the names of many of the free-state leaders who were there. Opposed to them, frequently within speaking distance, was David R. Atchison, once acting vice-president of the United States, afterwards commander of the border-ruffian army in Kansas, now a volunteer aide on Price's staff; John T. Hughes, engrossing clerk in the Kansas legislature when John A. Halderman was chief clerk, now at the head of a regiment of Missouri rebels; L. A. Maclean, of candle-box notoriety, a staff officer under Price; Richard Hanson Weightman, of Atchison, one of the incorporators of the Santa Fe railroad, a man of military education and a gentleman of high character. He had killed F. X. Aubrey it is true, but the seeming necessity was the regret of his life, and he frequently said if it was to do over again he would let Aubrey kill him. He died at the head of a brigade of Missouri rebels. Joseph Orville Shelby, Parsons, Rains, Frost, and many others who had made themselves obnoxious to the free-state people of Kansas, were in important positions on this field, and some of them were wounded.

I do not know whether Claib. Jackson was there or not, as he was not far away, as he was frequently mentioned, both before and after the battle, as being in that part of the state arranging for convening the secession convention which finally met in Neosho and, metaphorically speaking, lugged Missouri into the confederacy. But I do know, for I have read it myself, that in an obscure corner of the cemetery of Little Rock was the grave of the fugitive, and over it this brief historical fact, painted on a wooden slab:

.....  
 : CLAIBORNE F. JACKSON, DIED A TRAITOR TO HIS COUNTRY. :  
 .....

After his first successful onslaught, in which he sent the rebels flying in every direction, Sigel did nothing but plunder the enemy's camp and wait for something to turn up for nearly three hours! He seems to have given his men unrestrained liberty and is reported, on what seems good authority, to have plundered McCullough's headquarters himself! One of his lieutenants got a bag of gold, after which there was no pretense of discipline. He says in his official report that he was directed to cut off the retreat of the enemy, and he was determined to do it at all hazards. He accordingly formed his com-



mand so as to hold the Fayetteville road and waited while Lyon did the fighting. He speaks complacently of the terrific fighting of the other column, a mile away, but never intimates that he had anything to do but sit on his horse and wait to bag the game when Lyon had done with it. By and by there was a lull, and he thought the work was done, and mistook a retreating rebel column for the First Iowa and let it come within 20 feet of his battery before discovering his mistake. His guns were taken, his men cut down like sheep, and his command utterly routed. Sigel himself escaped to Springfield with one man, and went to bed before the battle was done. The confused and conflicting reports of Sigel's officers show plainly the demoralized and irresponsible condition of mind they were in. To sum up Sigel's part of the battle, it is stating it mildly to say that he could have saved the day, but from some unexplained reason failed to do it.

After Lyon's men had wondered for hours what had become of Sigel, the mystery was explained: first, when one of Du Bois' artillerymen, recognizing the peculiar shriek of a "basket" shot, exclaimed, "Great God, they 're shooting Sigel's ammunition at us," and later, when Sigel's flag with Lyon's name on it was borne at the head of a charging rebel column. That settled it.

In this connection it is proper to state that the different methods in reporting the "availables" observed by the union and confederate forces is misleading when comparing the numbers engaged in any given battle. The union adjutants included all enlisted men and officers present for duty, comprising cooks, clerks, detailed orderlies, wagon guards, farriers, teamsters, hospital details and helpers of every kind and character; while the confederate adjutants pursued the better plan of reporting as engaged only those with arms in their hands and actually in the line of battle.

The effect of this in the battle of Wilson Creek is illustrated, imperfectly, in the case of the First Kansas, which is reported to have had 800 men engaged, while as a matter of fact, the number just before the battle began, when the column was formed in platoons, was but 644. In the Second Kansas 600 men were reported as present, but of these 155 were somewhere else than in the line of battle.

In the case of Churchill's regiment of Arkansas troops, the confederate adjutant reported, "total availables 600, present 500." These round numbers indicate that they were estimated or lumped off, but the different methods are forcibly illustrated, nevertheless.

A careful examination of the reports on both sides shows that Lyon's force consisted of 3,594 officers and men, of whom 2,044 with 10 guns, were engaged for the first three hours of the battle. Plummer's battalion of 300 fought on the left in the valley, in the corn-field and beyond, leaving the number of Lyon's immediate command at 1,744. All the rest of his men were in reserve, supporting the batteries, protecting the flanks, and waiting for the order to go in. Against this thin line of less than two full regiments the rebels brought 6,900 men and eight guns, or four men to the union one.

When three hours had expired and each side brought up its reserves, the losses had reached, assuming the same per cent. was maintained throughout, Lyon's forces, 510; McCulloughs, 615; reducing the available men on the union side, including Plummer's remnant, to 1,534, and on the rebel side to 6,285, a disparity still of four to one. But even this was exceeded in fact, because the fiercest fighting and most deadly work was done when Price's Missourians made the onslaught and before the regular confederate forces were brought up. The first Kansas and the First Missouri, the main line of Lyon in the first



half of the fight, had lost, the former 44 and the latter 33 per cent. before the reserves were ordered up.

When "Bloody Hill" became the focal center of all guns and every available man was contending there, the rebels had at least 12,000 men contending against a possible 2,400 union men, or five to one. But even this is underestimating the odds that were against Lyon. Price had 3,000 unarmed but organized troops in reserve, waiting to supply themselves with muskets from the dead and wounded on the field. This they did, and the rebel losses were more than made good by this replenishment. Snead admits this, and Price says there were guns for all and to spare. In other words, there were more men opposing the union army in the end than in the beginning, and yet they ran away. The rebel artillery, also, had been augmented by the capture of five of Sigel's guns; but in spite of the overwhelming advantage in men and material, their officers ordered, begged, raved and swore in vain—they knew when they had enough.

There are many incidents related, which show a splendid contrast in favor of the union troops at this stage of the battle. They were more than willing to fight; in fact, they could not be restrained. The only service performed by the officers after the lines were formed in many instances, was to keep the men from unnecessarily exposing themselves. Our Kansas regiments were lying flat on their faces, the line officers sitting on the ground a few paces in the rear. Everybody was cool after the first volley, and a desultory conversation was kept up in which jokes predominated. Captain Cracklin took out his old briar-root pipe, and, after fumbling for his tobacco in every pocket, got up and borrowed a supply from one of his men and smoked as unconcerned as if it was all a sham battle. A rebel cavalryman became separated from his command and when the smoke lifted was within easy range of the Second Kansas, several of whom fired at him as he galloped away. He had escaped to the right and rear more than 150 yards when Captain Russell, for whom Russell county is named, said "See me fetch him." Without rising he swung his arm up till the elbow rested on the ground and shot him dead with his pistol. When the men were ordered to lie down a tall German by the name of Henry Newkamp, refused to do so, but kept walking back and forth along the rear of the line, picking off the Johnnies as the opportunity offered. For a time he seemed to bear a charmed life, and escaped injury where the bullets were flying so thick that a gun or ramrod held up a few feet above the ground was sure to be hit. To all entreaties of comrades he stoically replied, "O, vell, it makes me no difference out." He was hit on the head after an hour of exposure and a mortal wound inflicted. "Now I vas mad," said he, and dropping to his proper position fought like a tiger to the end of the battle. He died 12 days afterwards in Springfield. An Indian sharpshooter who had climbed to the crotch of a tree between the lines wounded two men in Cracklin's company with one shot. Bob Schuyler drew a bead on him and tumbled Mr. Indian to the ground stone dead. One of these wounded men was Jacob W. Longfellow, now a well-known citizen of Kansas City, Kas.

This is the character of the men who were representing Kansas that day.

At the lower end of the field was a farmhouse which was occupied at the time by a family named Sharp. The lady of the house witnessed the fight from her porch, and gave it as her opinion that the rebels were "whipped within an inch of their lives."

A daughter of Judge Perkins, whose home was near enough to be hit by a cannon shot, also saw the whole battle, and declared that both armies were retreating at the same time!



At 10 o'clock both sides were occupying the ground they had taken four hours before. The lines were within shot-gun range. Neither line was more than half a mile in length, but the rebel forces were more than five times the deepest. They extended in masses away back into the valley, and across the creek and to the crest of the hills beyond. There was a lull in the firing, and as the smoke cleared away all this could be seen. The men as well as the officers knew what was coming. It was the calm before the storm. No wonder the sight of the swarming hosts appalled even the brave heart of Lyon, and made him fear the day was lost. There was a rush on the left. Schofield led the First Iowa to meet it; Lyon rode with the file-closers at the right of the battalion. His favorite horse was killed under him, and at the next moment he received a shot in the leg and one in the head. He staggered a few paces to the rear and met Sturgis, who begged him not to so recklessly expose himself. Doctor Lyon, a distant relative of the general, wanted to dress his wounds. Captain Totten coming up offered him some brandy. He declined everything and walked back toward the front. All the mounted officers on the field gathered around him. He took the horse of Sturgis's orderly and rode toward the right. Just then a brigade of rebel cavalry was discovered in an effort to turn the union right. The Second Kansas was ordered up on double-quick—fixing bayonets as they came—to brace the wavering line. Lyon galloped back to Totten, and in a moment his battery was flying to the threatened flank. Before the Kansans could fire a volley Totten's guns had done the work by a murderous enfilading fire, and the thinned ranks of the enemy recoiled in dismay and left the field.

A lull of half an hour ensued. Again the field officers gathered about Lyon on the crown of Bloody Hill. There was no enemy in sight. What did it mean? Conjectures were various, but the men believed they had won a great victory. Lyon was giving orders for extending the line on the right, and the Second Kansas, which had come up meantime, was clamoring to be assigned a place.

At this instant a line of men was seen at right angles to the column of Lyon, and a question arose as to who they were. There was a possibility of their being Sigel's men. Lyon, Mitchell and an orderly rode out toward them. Three officers at the same time advanced from their lines and asked "Who are you?" From some cause Lyon at once saw they were rebels, perhaps he recognized them as old army associates, at any rate he turned to his body-guard, which had come up, and said: "Shoot them! Shoot them!" Instantly there was a volley from a thicket a few rods away and Lyon received a bullet in the heart. Mitchell was hit in the thigh at the same time, but caught Lyon as he was falling and lowered him from his horse to the ground. To his orderly, Albert Lehman, he murmured, "I am killed; take care of my body." Lieutenant Shroyer of the Second and two men sprang forward and bore the corpse through the ranks to the rear. Lehman was crying and making a great noise, and was told to keep still. The face was then covered with a handkerchief and the guard told to keep the fact of Lyon's death from the men.

This simple recital is gathered from personal interviews with soldiers who witnessed the event, officers within speaking distance of Lyon when he fell, numerous letters, and lastly, the official records of the battle. It differs from the popular accounts which have given inspiration for the cheap pictures, the only representations extant, of the death of Lyon.

There was none of the impetuous dash and wild clamor of war, "peal on





peal afar;" no leaping steed, frenzied with the clash of arms; no fluttering pennants, nor host of aides in brilliant uniforms to signalize the event; none of the stock accessories of the death that came to Nelson and Packenham. Simply a quiet, unassuming soldier, bareheaded, and bloody from crown to foot, sitting on a jaded horse with a few comrades at his side. In this way Lyon fell; the first great sacrifice of the war; the only leader who had rightly interpreted secession, and the only one who had seized it by the throat or seriously threatened its overthrow. At the time of his death there was no general in the union army worthy to be compared with him. What he had done and attempted to do had already endeared him to the whole north. Suddenly elevated from a captain to a general, he at once disclosed the qualities of leadership, roused the hopes of his countrymen by his tremendous energy in pursuing and sublime audacity in fighting overwhelming odds, and crowded into two months a career as brilliant as it was brief, and as precious to the cause as its ending was bloody and pathetic.

There was more fighting, more prodigies of valor, more heroic dying on the stricken field, but the battle culminated with the death of Lyon.

He had ceased to fear the day was lost since the repulse of the impetuous attacks upon the left and right and the lifting smoke had revealed a field unquestionably his own. That he was not permitted to survive the moment of victory, and that his successor, either through incompetency or cowardice, fled the field, cannot detract from his glory or dim the luster of his great name. All union authorities agree that at half past 11 o'clock the enemy had been driven from the field. Half an hour after the firing ceased he burnt a portion of his train and set the remainder in motion toward Fayetteville. The union forces were withdrawn to a new position a short distance in the rear, and a new line formed facing the field. This line remained there so long that discipline was relaxed, and the men sat down on the ground to rest and play cards and talk over the battle. Everybody but Sturgis believed the union forces had won a great victory. The men were exulting and, although they had marched all night and fought for six hours in thirst and hunger, were impatient to pursue the enemy. Sturgis was importuned to do so by the highest officers in his command. Sweeney insisted on following up the victory and making it complete. So did the brave Surgeon-General Cornyn, who kept his gun ready near the surgeon's table, and whenever opportunity offered ran to the front to pick off a rebel or two. So did Gordon Granger, who rode up to Sturgis, after making a reconnoissance of the field alone, and remarked that there was not an enemy in sight and that he ought to be pursued and cut to pieces. To this Sturgis replied, "I order you to leave the field." "But," said Granger, "they have burnt their train." "I order you to leave the field!" said Sturgis sharply, and the army retreated to Rolla, and Price, recovering from the blow, overran Missouri and wintered on the Osage.

When the army reached Springfield, Sturgis had sufficiently recovered from his fright to recall the fact that he had forgotten to bring Lyon's body from the field. A flag of truce was sent back after it and when the detail arrived on the field the rebel officers were straggling back in a surprised sort of way and a few rebel soldiers were robbing our dead, but as yet there was no general occupation of the field.

McCullough, in his defense before the rebel secretary of war, says Price urged him to pursue the federals, but his men were out of ammunition and he decided to let well enough alone.

In this battle the First Iowa lost 154 officers and men, the First Kansas



284, and the First Missouri 295, an aggregate of 733, or one regiment out of the three.

The country owes it to itself that the sacrifice of these men—the first free offering of three great states on the altar of the union, together with the valor of all who were there, living or dying, should be commemorated by a monument to Lyon and his men and the dedication of the field for a national park forever.

It is perhaps enough for that day's work to say that it has been the fireside theme for a generation; the pride of all who saw the stricken field as the army marched away, the glory of all who, for the union of these states, participated in that carnival of blood.

(It is a perilous thing to invite the participants in a battle to contribute incidents of the day's doings. Especially is this true when their memory has been impaired by a lapse of years since the event. The more important the point to be established the more these authorities differ. According to the conflicting statements of eye-witnesses, Lyon was dressed in the uniform of a brigadier-general, the uniform of a captain of infantry, and in citizen's clothes, including a linen duster, at the moment he was killed. By the same authorities he wore a forage cap, a yellow wool slouch hat, and was bare headed, when he fell. All agree that he was ambushed in the most cowardly manner, and that he died at the head of a Kansas regiment. A. R. G.)

---

## THE ROMANCE OF KANSAS HISTORY.

Read before the Kansas State Historical Society by Prof. OSCAR E. OLIN at the annual meeting, January 15, 1895.

I heard the story of Kansas in the neighboring state of Iowa at the most impressible time of boyhood. It had a strange fascination for me, and I followed it from week to week as the history was made, little thinking I should ever look into your faces or stand among you. In the 25 years that I have been a Kansan I have met many of the men who made that history. I have seen the scars of conflict; I have seen heads grown gray before their time; I have seen gray heads bowing low every year, and I should rather talk to you tonight of the power and pathos of it all, than read the paper I have prepared.

A romance is popularly supposed to be the blending of truth and fiction found in the legends and marvels of mediaeval time. But there is a sense in which whatever stimulates the imagination by what is fanciful, unusual, of wide variety, ideal, full of sentiment, heroic, bringing about improbable results, may be and is called romantic.

The field of reality, except for its commonplace, is no less romantic than the realm of fiction. He is a daring novelist indeed who will portray life in as strange relations as it bears about each one of us.

History—the record of events and of life—is full of romantic interest to him who really studies it. Romance may be dramatic, developing the play of character and of plot. It may be tragic to the last degree; and history is both. It is the highest drama of human life; it is the long tragedy of nations; and surely nothing in the range of fiction can compare with some of the actual events of history. What novelist has drawn ideal courage and sacrifice to equal the real Thermopylae? What hero of fiction can equal in achievement the real Alexander? What event of fiction was ever more opportune than the coming of the steel-turreted "Monitor" to buffet the iron giant of Hampton Roads?



Macaulay was right, that history should be so studied and written as to bring out its dramatic character, and keep as its own the interest that now attaches only to romance. He has written in five volumes the history of England, covering only 15 years; but that story is as fascinating as *Waverly*, and those 15 years stand out from the annals of the past in all the freshness of life, and all the charm that attaches to the swift vicissitudes of human action.

There are times in every nation when the interest of generations or of slow-moving centuries culminates in the rapid changes of a few years. And when the genius of history shall sufficiently inspire some writer, these shall stand out as mountain peaks whence all the hills fall away into order, and all the plains spread out into beauty. Then shall we see clearly all the inflowing and outgoing and intermingling relations, and know that there is no crisis but has been prepared for and is itself a preparation for something further on; and know, too, that running through it all are the lines of force that can come only from the power that, in spite of human blindness and passion and fury, yet steadily and surely "makes for righteousness."

To such a critical period belongs the history of Kansas. It was not merely the working out of local government—the establishment of one more state. That of itself has but provincial interest. But events had so converged that upon the decision of this state hung the fate of American institutions—the destiny of the nation itself. Its history was thus made dramatic from the first. At this beginning our nation was in satisfied peace. For half a century the fiercest arguments in congress grew out of slavery. Now all that was happily settled. A great war had been fought, and our territory had been enlarged and made symmetrical. Slavery had been abolished in the District of Columbia, and geographically bounded elsewhere, for all time to come. No more should the hated question be mentioned in the halls of Washington. That this condition should in a day be changed; that all that had been governmentally closed and locked and sealed should be flung wide open again; that in 10 years events should run on to the inevitable tragedy, and all the powers of men should crystallize on new lines of force—would be expected in the pages of romance or the swift action of a play. But all this gathers in sober earnest about the history of our state.

The colonization of Kansas by free-state men presents all the materials of a novel. The journey of every wagon train has all the interest of *Astoria* over again, with a still worthier object. I live within sound of a church bell that was once a steamboat bell, and struck the hours all the way from Cincinnati to Manhattan. It is one of the most valued possessions of the town; and here and there, in homes, over the state, are books and implements and articles of furniture about which a halo of veneration is already gathering because they were brought on those eventful journeys. And the feeling is one to be encouraged. The stories of the Kansas grandfather are just as interesting and valuable in making heroic manhood as those of his New England ancestors.

So, too, the period that follows abounds in the elements of romance, as members of your body, many of them from personal experience, can abundantly illustrate.

As we recede, the landscape mellows, the fields blend, the forests deepen, and the hills soften, till all the harsher features are lost and only the beauty remains. Nature has wisely provided that in increasing distance all mere noise and discord of sound shall be suppressed, and only musical tones and harmony shall reach the distant listener. So time, in mellowing everything, effaces



first the sharp fear, the dread anxiety, the rasping conditions, the awful brutality of conflict; but leaves the hope, the daring adventure, the high purpose, and the memory of endurance. All else is passed into a dream. I am sure that the time will soon come when, looking back through the haze of distance, this period will be seen rich in all that goes to make up romance; and then some zealous student of history will do for Kansas what Mrs. Austin has done for the Plymouth colony.

Kansas has an added interest too from the men who made it and whom it made. That long roll-call may not be heard to-night, but it contains names that are familiar to the nation, among them not a few that appeal in the gathering dimness of years to all our feelings of romance. The sturdy life of Governor Robinson is known to all the state. From beginning to end it was one of enlistment against what he believed to be oppression. And in every act, I believe, he had the good of Kansas, free Kansas, at heart. Whatever was to be said against him was said in his hearing, and in all coming years the faithfulness of his life will be unquestioned. There was the impetuous and impossible Lane. There was the line of promptly retiring governors, one of whom, by his firm and wise control of a great state, and by his prompt and energetic meeting of emergencies afterwards, made a wall of protection between the union and its enemies. And then there was old John Brown.

I know it is somewhat the fashion to deride John Brown, and to say that he did Kansas and the nation more harm than good. I know he was a fanatic, and injudicious, as most fanatics are. I know from the dealings of my own family with him that he was scrupulously honest. I do not believe he was wantonly cruel or unjust. I believe he committed legal treason. I do not say he ought not to have been hanged. I think perhaps he ought. But so ought Huss and Savonarola to have been burned, that out of their ashes might rise a more glorious freedom than they had ever dreamed. The highest wisdom of men would have been foolishness in bringing about what the death of John Brown did. I know he said emancipation must come with violence. He believed that without the shedding of blood there was no remission of the sins of 250 years. But, my friends, a million graves lie under the stars to-night, proving—God pity us—that it was true.

In the tale of "Ivanhoe" Scott has reproduced, with historic fidelity, the scene of the tourney held under King John. We see all the trapping or chivalry; we pace the lists; we watch each champion as he gives the challenge to his opponent—with blunt spear upon his shield, if to trial of arms, with pointed spear, if to mortal combat. We follow all the changing fortunes of that day with intensest interest, knowing that, while the characters may be fictitious, the scene is historic; for this was the last tournament of knight-errantry on English soil.

In the romance of Kansas history, there is a scene of equal interest and far more importance. The representatives of oppression had sent their challenges far and wide. Year after year they had held the lists, and one after another their opponents had gone down before them; till on our broad prairies a grim champion of freedom stalked into the arena and struck a ringing blow with pointed spear upon the shield of slavery. What matter that the conflict begun here surged to and fro, and beyond our borders? What matter that it brought the roll of drum, the thunder of cannon, the storm of war, and the darkness of death? What matter that men said it was the nation's life that was in danger, and when peace came again that the union was saved? It was slavery's last tournament; and the victor in that strife was the champion who on the plains of Kansas sounded his bugle blast, "In the providence of God, human slavery shall





perish from the earth." He followed each weary campaign; he was above the clouds on Lookout Mountain; he stood with the firm-set ranks at Gettysburg; and not until the emblems of war drooped low, and the great starry flag waved over all, could the stern spirit that had marched on every battle-field of the union go home with the glad tidings, "Lord, thy people are redeemed."

I do not wish to magnify events because of my own prejudice, or for their relation to our own people. This drama of liberty was witnessed from other lands. Victor Hugo, the French apostle of liberty, looking across the Atlantic, and over the Alps, in all the world could see but two champions of freedom; Garibaldi, marching beside his king into the ancient cities of Italy, and John Brown, of Osawatomie, marching with fearless tread to the death gallows in Virginia.

There is romance in the life that is lived in the home, as well as in that which fills the public eye. And in the unquenchable hope, the high daring, the stern fortitude with which men and women met life here, we see the same spirit that has been immortalized on the coast of New England, and in the forests of Ohio and Kentucky. It was this home spirit that made its public power. It was this that made possible the romantic, the dramatic, reversal of the judgment of the nation, the decree of power, and the very standards of civilization. Geographers said, "Kansas is in the Great American Desert." Kansas said, "Not so." And straightway the "Great American Desert" moved into Colorado, New Mexico, and Arizona. Explorers said, "Kansas will be good for nothing but a home for the Indian and the buffalo." Kansas said, "This shall be the granary of the West." And it was so. The church said, "Slavery is right." Society said, "Slavery is just." The nation said, "Slavery in the United States shall never be disturbed." Kansas seized the pen and wrote in swift letters of gold and crimson, "Slavery in the United States shall be forever prohibited." And it was so.

Our state has been tried by every kind of adversity. It has been misunderstood. It has been maligned. It has been shaken by storms of opinion. It has been bruised and rent and torn. It has been baptized in blood. But every year the bluest of skies has bent above it, the life-giving winds have swept across it, the sunlight has kissed into new life the grasses and flowers of its hills, and it has been altogether beautiful. Whether or not its romance shall ever find a place in enduring literature, shall it not be ours to teach our children its lessons that in these stirring events there is a power of life; that glorious beginnings demand grand fulfillment; that in the common sharing of danger we pledged a united people; that in every hardship endured for freedom's sake, every obstacle overcome, every life given up, we gave tokens for all time, to East, South, North, and West, that

"Henceforth to the sunset,  
Unchecked on her way,  
Shall liberty follow  
The march of the day"?



## INCIDENTS OF THE PIONEER DAYS.

Address of Hon. JOHN SPEER before the State Historical Society, at its annual meeting,  
January 15, 1895.

Invited, as I have been, to exhibit at this annual meeting of the Kansas State Historical Society something of "The Incidents of the Pioneer Days," my mind naturally goes back to more than 40 years ago when Kansas was a wilderness, and all west of the Missouri river an unexplored region, save by a few hunters, adventurers, United States soldiers, missionaries, and employes in the Indian service. At that time the nearest railroad point to Kansas was at Alton, Ill., not a single railroad entering St. Louis from the east. The general immigration from the east and northeast came by rail to Alton, by steamboat on the Mississippi to St. Louis, and thence by the Mississippi and Missouri river steamers to Kansas City and Leavenworth, the latter a mere hamlet of rude shanties, and the former "a city," as a Butternut told me, "of 271 souls, and about a dozen Indians." It took a week usually to make that difficult voyage, frequently laying up at night. Since those days 10 states have sprung up from the wilderness which we penetrated—Kansas now the greatest of them all, in population, in wealth, and all that goes to make a great commonwealth. It seems almost prophetic to read Whittier's poem on an eagle's wing presented to him on Lake Superior by a pioneer:

"Behind the scared squaw's birch canoe  
The steamer smokes and raves;  
And city lots are staked for sale  
Above old Indian graves.

"I hear the tread of pioneers,  
Of nations yet to be;  
The first low wash of waves, where soon  
Shall roll a human sea.

"The rudiments of empire here  
Are plastic yet, and warm;  
The chaos of a mighty world  
Is rounding into form."

The rapidity of stirring events commend brevity as an indispensable virtue in an address like this.

There was no difficulty on the steamer in learning that we were on the verge of a great conflict. The northern men were rather reticent, but the southern men soon made it understood that there was no hope for an "abolitionist" in Kansas. One man put it thus, "The abolitionists can take Nebraska, but if they get Kansas they will have to fight for it." At all the landings there was much talk—generally boisterous and threatening—and there was no concealment of the bitter antagonisms to northern ideas prevailing everywhere.

The first winter was spent in comparative quiet, but it was the quiet preceding the storm, which broke out in all its significance March 30, 1855, when the election was held to elect members of the legislature. True, there had been some difficulty at the election of November 29, 1854, when Whitfield was elected delegate to congress, and I think he would then have had a majority



on a fair vote. Nevertheless, the opponents of a free state took no chances for lack of fraud and impositions. At that election Kibbee killed Davis—Kibbee being a free-state man, and Davis pro-slavery. It was justifiable homicide, although the case never came to a final trial.

There was no fairness about the 30th of March election, 1855. Fully 1,000 men, principally from Missouri, nearly all of them armed, came to Lawrence to vote; but, finding they did not need so many, about 300 of them were forwarded to Clinton, a polling-place 12 miles southwest of Lawrence.

Mr. Joseph Shelby, then a young man, conducting a rope walk on the bank of the Missouri river near Lexington, was a rather prominent participant in that election. I took dinner with him at Col. S. N. Wood's house that day; and, considering his business there, was astonished that so prepossessing a young man should be with that multitude. Mrs. Wood, expressing some fears of violence, was assured by him, in a very gentlemanly manner, that no mob violence was at all likely to be attempted, and, if attempted, could only be "done over his dead body." He afterwards became General Joe Shelby, so distinguished as to make no description of him necessary. When Jefferson Davis was at the Kansas City exposition, in September, 1876, I happened to meet him there, and, introduced myself with the remark, "General Shelby, I took dinner with you at Sam. Wood's house in Lawrence, March 30, 1855, when you came up to Lawrence to help us vote." He laughed, saying, "I did take dinner at Mr. Wood's that day. Well, Mr. Speer, we have all made great fools of ourselves since that day."

A few days afterwards, one of the most noted characters in Kansas history arrived at Lawrence—Col. James H. Lane—who had commanded two regiments in the Mexican war, and was a democrat. Within four months after his arrival in Kansas, he became an important figure in the free-state party. He led the armies of the free-state organization until after the commencement of the civil war. He became United States senator, and, as Wilder's "Annals" says, "in politics he was king."

He was a Methodist, and the Methodist church was one of the most important factors in the destruction of slavery. Lane knew the importance of church influence, and, as his mother was a Methodist, the church members began to call on him, and occasionally he exhorted in church meetings. A story was told that, at a revival in the old Methodist church at Lawrence, he and Col. Hamilton P. Johnson, of Leavenworth, both made exhortations. Lane had completed a most pathetic appeal to sinners, in which he had spoken of the happiness of the dying Christian, under all circumstances. He had seen the Christian die in the palaces of wealth, and in the humble cabins of the pioneer, and he always died happy. He had seen him die upon the battlefields of Mexico; no matter where he died, he always passed away in happiness, and went to glory. Just then a man whom we shall call Wash., in a state of intoxication, hearing the voices of Lane and Johnson, and taking it to be a political meeting, staggered in, and addressing the preacher in the pulpit, said: "Mr. President, since the gentleman has mentioned the battle of Buena Vista, I was there myself, and fought and bled and died nary a time!" Some of the church members took Wash. by the ear and led him out; but not without his yelling back, that he could not see why he had not as good a right to speak "as either Jim Lane or Hamp. Johnson." Johnson was a retired Methodist preacher, and considerable of a politician. He became a colonel in the union army, and was killed at the battle of Morristown, Mo.

The Methodist church had gone through the ordeal of a division between the



North and the South; and but few members of the southern division settled in Kansas. The northern branch had been twice baptized—baptized in the faith of Wesley, and baptized in the principles of that great leader, who declared that “slavery was the sum of all villainies.” The disruption of the church made all northern Methodists objects of antagonism, and they were marked as enemies by the whole pro-slavery organization. On the other hand, Kansas free-state men always defended them. I have seen 30 or 40 men, most of whom cared nothing about that church, and some of them caring for no church and no religion, go to a camp-meeting, armed to the teeth, declaring that no Methodist assembly should be insulted and broken up while they lived. The first Methodist conference came together under great apprehensions of violence, and with the distinct assurance that it should be protected. The Wakarusa camp-meeting was one of our Douglas county institutions, sacred to liberty. Many anecdotes were mixed with its religious history. It was at a great Palmyra camp-meeting that Lane was converted; or was said to have been converted. His prominence in politics, and his peculiarities of character, made him the religious butt of the waggish tongue everywhere, and various were the stories of his “experiences.” Far be it from me to ridicule such sacred things, and I hope these recitals will escape such criticism. They must be taken with the usual degrees of charity, and considered as the Christian looks upon all apocryphal stories; as he reads the Maccabees, the story of “Susanna and the Elders,” or the account of “Judith and Old Holofernes,”

Mr. E. J. Dallas, Esq., an honored member of this Historical society, has given me the best version of it, and this may be rather suspected as apocryphal. Doctor Dallas, his father, was a devout Methodist, and an ardent friend of General Lane. The young man came home from school during a camp-meeting, and having a great anxiety to see General Lane, who, he was told, was at the camp, he hunted up Silas Soule, a young friend, and requested him to go and point the noted man out. Now Sile was a bad boy. There are bad bad boys, and good bad boys—and Sile was of the latter kind—on mischief bent, with no bad intent—

“Neither a man nor a boy,  
But a hobbledehoy.”

“Yes, I know him,” said Sile; “the old rascal is at the headquarters camp praying now. Come on.” On they went. The tent entrance was crowded beyond the possibility of passage; and they found a crack in the boards; and there he was, down on his knees, in extreme solemnity. The usual exhortations were delivered, one after another speaking, with all the pious responses which deep devotion always prompts. Finally, Lane arose slowly, and looking seriously over the congregation, commenced a most pathetic exhortation, referring with great solemnity of manner to the teachings of his sainted mother, long since in the heavenly home. He dwelt upon her infantile lessons, when she taught him to kneel at her side while she gave him the child’s lesson, “Now I lay me down to sleep, I pray the Lord my soul to keep.” And on that text he touched every heart—leading them up to his advancement in age when she taught him the Lord’s prayer. This he recited: “Our Father which art in heaven, hallowed be Thy name. Thy kingdom come. Thy will be done, in earth, as it is in heaven.”

Then he followed up, in almost tragic accents, praying that the will of the Lord might be done here and now and everywhere “as it is in heaven!” He stirred that audience, as our informant tells us, who had heard many of the greatest revivalists of our times, as he never had witnessed. The pathos and effect of that address is indescribable. As he concluded, he sat down,





bowed forward, with his face in his hands, as all his friends have so often seen him in deep meditation. Then the minister carried on the meeting, exhorting the people against all the vices that humanity is heir to; but eventually turning upon the vice of tobacco, until his eloquence made a deep impression, and seemed to move visibly that great man to a sense of his besetting sin; when, reaching down under his vest, with his head still in prayerful attitude, he pulled forth about a foot of dog-leg tobacco, passed it up to the preacher without raising his head. As the preacher took that plug in his hand new inspiration seemed to seize him, as he exclaimed: "Glory to God! This great man, who has led the hosts of his country in battle, stood upon the forum of the capitol, and in the serried ranks of war, has given up his last idol, and surrendered his heart to the Lord. We will cast this vile weed to the four winds of heaven!" And, suiting the action to the word, he flung the dog-leg afar into the bushes surrounding the camp. Then, in spontaneity, the whole audience broke forth in shouts of song, "Praise God from whom all blessings flow."

In time the touching scene was ended, and all went their several ways with happy hearts rejoicing. But Sile and young Dallas remained sauntering over the camp in silence, till Sile said, "Let us go over and find that tobacco." They searched through all the brush and weeds, but the weed of all weeds was lost. The next day he went to a Lane caucus, and found him discussing politics and chewing apparently the same dog-leg piece. He had "backslidden." This last statement is apocryphal. When General Lane went into the senate, he entirely broke off from the tobacco habit, and was as dignified as any senator.

This story ought to be true, for we have since been reliably informed that the relator came very near being whipped by his Methodist father for slandering his friend. It lacks also this fact to insure its reliability with all who knew Lane: that he has failed to furnish any affidavit as to the person from whom he borrowed that tobacco; for it was an axiom with the boys that he never had more than one chew of his own. His opponents have accused him of rashly wanting to fight the United States troops; while all his friends know that he was jovial with all the troops when they were not under orders to arrest him, and the only injury he ever did them was in borrowing all their tobacco.

When the first street-cars were placed upon Pennsylvania avenue, in Washington, in 1862, cars were run with a placard in large letters, "For negroes," and no negro was admitted in the white cars except as a servant accompanying a mistress or children, and the servant was compelled to stay on the outside platform, while the mistress or child went inside. One day, in Lane's presence, a young colored girl appeared with a child; the child was pushed into the car, and the girl kept on the platform — the affrighted infant screaming for its nurse. Lane opened the car door and said to the nurse, "Come in and take care of this poor child." The girl protested that they would not let her. "I will see that nobody hinders you," and took her by the arm and led her in. The conductor interfered, threatening to inform on him. Lane promptly said, "Attend to your business, or I'll drive this car to the headquarters, report the case, and see that a bill is introduced to repeal the charter of this road." The girl stayed in the car, and the conductor reported. The company investigated it far enough to find that Jim Lane was the offender, and was preparing a bill to repeal the charter or control the road. They took the cars off, and a negro car has never run since.

In the troubles of 1855, Messrs. William Ross and ——— Wemple, the brother



and brother-in-law of ex-Senator Ross, brought to Lawrence a free colored man from Shelby county, Missouri, and with them a white Missourian as a farm hand, who professed free-state principles. The pro-slavery men sought difficulties, and wanted to investigate the negro and the "negro thieves." Dave Evans, the free-state Missourian, took it up, resisted them, and, armed to the teeth with knives and revolvers, drove a half-dozen of them off. He was known as "Buckskin," because he wore a buckskin suit. Lane heard of him and his prowess, and hired him at \$15 a month "just to stand around and accommodate ruffians spoiling for a fight." They gave "Buckskin" a wide berth, shied away from him, and for a long time he was a terror to them all.

Hon. Walter N. Allen could tell you the story of Lane's defense of the hog thieves at Oskaloosa. Mr. Allen was the prosecuting attorney, and had had three or four free-state men arrested for stealing pro-slavery men's hogs on the Delaware Indian reserve. He had all his evidence ready, was sure there was no defense, and expected a plea of guilty, and an appeal to the court for mercy. To his surprise, when the court met in the morning an affidavit was offered by the defendants, setting forth that they had been unable to procure an attorney, and asking for a postponement until 7 o'clock in the evening. The court granted the time, and attorney Allen, surprised that there could be any defense, retired to his hotel for rest and recuperation. South of Oskaloosa there was a long slope of prairie, a smooth, beautiful ridge, a grand view for seven or eight miles. Sitting on the porch of his hotel near the middle of the afternoon, Mr. Allen observed an object far away, which he soon saw was moving, and slowly advancing towards him; again he saw the object was a man on foot, and as it neared him he recognized General Lane. Then it dawned upon him that Lane was the attorney for the hog thieves. But what conceivable defense he could have Mr. Allen could not imagine. Soon men were coming to the trial from all directions; and when the court met, the house was full. The accused had quietly whispered around among their friends that Lane would speak that night. Lane had examined the poll-lists of the March election, 1855, at Lawrence, and found the accusers' names on the lists, and copied them.

Allen produced his witnesses, and the evidence was clear and indisputable. Lane had no questions to ask. He said the court was bound to take judicial notice of two things: one, that he held in his hand a copy of the poll-list showing that these men voted at Lawrence, and in this trial they have sworn they then lived in Missouri, and emigrated to Kansas afterwards. He said that men who would thus stuff ballot-boxes, overrun elections and drive voters from the polls ought to be thankful that they were not hung. Another point of which the court must take judicial notice was, that this pretended offense was committed on an Indian reservation, which was no part of the territory of Kansas, over which the court had no jurisdiction. He then turned his face from the court and denounced these men as ballot stuffers; as belonging to a party of murderers and thieves, who had no rights in Kansas, nor any place else outside of the penitentiary. He so stirred that audience that the court jumped out of the window, Allen retired in good order to the hotel; the prosecutors fled in all directions; Lane then turned to the arrested men, and said: "Where, oh, where are thine accusers?" Attorney, court, jurors, accusers, were all gone.

Allen, in telling the story, told me Lane came to the hotel, and undertook to speak to him. Allen repulsed him; told him to go away; he would have nothing to do with a man who would incite a mob against him in a trial. But,



after much persuasion, and winning good nature on the part of Lane, Allen condescended to hear him, "Now, Walter," said Lane, "you know what kind of a case I had." "Yes, I know you had no case at all." But he listened further, as Lane proceeded: "Walter, you know, if I could have borrowed or hired a horse on credit for the trip, I would not have walked here and back, over 40 miles. These men deposited a \$20 gold piece in the bank of Lawrence, which I am to have when I get there. Walter, if you are as poor as I am, I hope you got your fee. I had not a dollar, and I have been refused credit for a loaf of bread in Lawrence, and my family have not even the necessaries of life. Let us be friends, Walter. My clients are cleared, and yours have cleared out for Platte county. I hope your friends will find a ferry, and none of them be drowned in swimming the Missouri river." And after this, Mr. Allen said: "Speer, I declare to you that before he left I was the best friend he had in Oskaloosa."

I have thus far complied with the desire expressed by members of this Society that I should present some incidents on the humorous side of early Kansas life. I will now give some statements of fact within my own knowledge which relate to an important political epoch in Kansas history.

---

#### THE LEAVENWORTH CONSTITUTION.

The situation in Kansas when General Denver was sent here, to be governor of the territory, in December, 1857, was precarious to the advocates of slavery. General Lane had become so formidable a factor in Kansas public affairs that President Buchanan had, in a special message to congress, three columns in length, personally denounced him as a "turbulent and dangerous military leader." Lane was the only man of military renown among us. Our neighbors, the Missourians, knew him. Colonel Doniphan, his compeer in the Mexican war, knew him and respected him for his gallantry, and Doniphan's soldiers deprecated him as brave soldiers always deprecate conflict with a gallant comrade. They hated his cause, but admired his daring.

Three governors—already sent as messengers to plant slavery on Kansas soil—had been thwarted and failed, and in desperation the administration had sought a man of tried blood, of whose position there seemed no doubt, as a devotee of the institution they were attempting to establish. Denver was the man chosen. The people had the legislature at last. The Lecompton constitution had been assailed by the legislature. That legislature had given up no hopeful resort, to meeting the charges of Buchanan's administration against the Topeka constitution, that it originated in a mere public meeting and lacked the elements of a non-partizan document, originating from legislative authority. And this notwithstanding the fact that it had passed the popular branch of congress.

Devoted as the people were to that "blood-stained banner," the Topeka constitution, their representatives were considering the propriety, the strategy rather, of passing a law by the legislature, then in session, for another convention, the idea being with many to make it a mere re-enactment of that document so dear to many hearts. The proposition was soon presented to the legislature. To say that the whole power of the federal administration was against this Leavenworth constitutional movement is but asserting a fact demonstrated by the shrewd, strategic, opposition of the few adherents of pro-slavery in the territory, backed by Governor Denver, who was but fulfilling his mission. His last attempt was to thwart it by what was called "pocketing" the bill. To do this he decided the legal question of when a



legislature expired, and retained the bill, and pertinaciously declared that it was defeated.

In an address made before the old settler's meeting, at Bismarck Grove, Lawrence, September 3, 1884, Ex-Governor Denver, a guest at that meeting, said of the Leavenworth constitution:

"Well, after the constitution came around, it turned out that it was to be submitted to a vote of the people, and the returns were to be made to the governor and three others, and one of the provisions of the constitution was that there was to be 'universal suffrage;' that every man, woman and child, every horse, every cow, everything that had life in it, should have the right to vote in Kansas. Well, that was only an illustration of the wildness of the times. Standing here as the representative of the general government, taking no part in any of these excitements, it was my place to look at these things calmly and weigh them properly, and act for the good of the people." [See Kan. Hist. Col., vol. III, p. 359, for the address of Governor Denver here quoted.]

To show how "calm" Governor Denver was, it is but necessary to quote section one of article two of the suffrage article in the Leavenworth constitution, to wit:

"Article II, Section 1. In all elections not otherwise provided for by this constitution, every male citizen of the United States, of the age of 21 years or upwards, who shall have resided in the state six months next preceding such election, and 10 days in the precinct in which he may offer to vote, and every male person of foreign birth, of the age of 21 years or upwards, who shall have resided in the United States one year, in this state six months, and in the precinct in which he may offer to vote 10 days next preceding such election, and who shall have declared his intentions to become a citizen of the United States, conformably to the laws of the United States, 10 days preceding such election, shall be deemed a qualified elector."

The objection which struck most effectively against this article was that it had not the word "white" in it, and the pro-slavery leaders were exceedingly bitter on that. If, however, Denver meant his "horse-and-cow" theory of voting as irony, it was a flat failure; if he meant it as a fact, it was flatter as a false statement, unworthy of a man experienced in statesmanship. But the Lecompton constitution lacked the same word. (See Wilder's "Annals," page 183.) It said "every male citizen of the United States above the age of 21 years," and so forth, could vote. Lines were then well marked between slavery and freedom. The Dred Scott decision had just declared that negroes were not citizens, but "chattels." The men of the one convention recognized them as men; of the other as things. Lane said: "A man has to be educated up to man's rights of equality," and he accepted the distinction. The sentiment of the two was as widely distinct as freedom is from slavery.

I have no purpose to detract from the character of Governor Denver, nor from his ability. He was the fourth governor who had been selected by the slave power to subdue Kansas. Kansas in the end was the political "grave of six governors." He came proudly, as the last resort of the hopes of an oligarchy which had ruled the nation almost from its foundation. He had a hard task to fulfil if he succeeded in turning the tide which Lincoln declared, in his great debate with Douglas, was to make this country "all slave or all free." If successful, Denver was immortalized; nothing short of shearing the slave oligarchy of power could have kept him out of the presidency. He would have been the hero of the period.

The great controversy of right and wrong came on the question of his "pocketing" the bill for a constitutional convention—the one under which was framed what was called the Leavenworth constitution.





“On the 12th day of January, 1858, Mr. [John] Speer introduced bill No. 41, entitled ‘An act to provide for the election of delegates to a convention to frame a state constitution.’” There had been two years of persevering adherence to the Topeka constitution. The people had rallied to it as to an ark of safety. They had resolved, and even sworn to support it to the end. Many lives had been sacrificed to sustain it. The people were loth to give it up.

Still, tired of a state of war, the opposition in the East declaring that its informality was the special reason why it could not prevail, and that such an instrument, instead of originating in a mass-meeting of the people, and a convention of delegates afterwards, although adopted by a fair vote of the people, was so informal and so contrary to precedent as to make it indefensible. All these considerations well weighed by its author, and approved as he believed by the wisest councils, the bill was drawn and presented in the honest hope that it might restore quiet, and produce alike peace and success. It would have done all this, had this been a question alone for the people to be governed by; but it was a national question, forced upon our people. The repeal of the Missouri compromise was forced upon the people of the union by an oligarchy which seemed indomitable. The slave power had forced the Dred Scott decision, which practically made slavery national, and one of its champions had defiantly declared that he “would yet call the roll of his slaves under Bunker Hill monument.” This bill, therefore, brought out all the opposition of the national administration, and every artifice was adroitly used to delay its passage in the house and in the council.

The bill finally passed both houses and was presented to Mr. Walsh, the governor’s private secretary, at the governor’s table, at 10 minutes before 11 o’clock on the 9th day of March, 1858, which was three full days of 24 hours and 1 hour and 10 minutes over three days before the 40 days’ limit of the legislative session by the organic act of congress had expired. The legislature, however, remained in session one day longer. Whether that was legal was immaterial. The organic act provided that a bill held by the governor for more than three days, unless the legislature adjourned before such three days had expired, should become a law without his signature; and he held that the life of the legislature expired in less than three days after he received the bill, and held it, and that thus it failed of passage.

On the contrary, Mr. H. Rees Whiting, a clerk of the house, in which the bill originated, made a sworn statement to the facts which I have stated, and such sworn statement was ordered entered upon the journal. And, on motion of Mr. Speer, a resolution was passed declaring that the bill had passed and was in the possession of the governor for more than three days before the legal expiration of the session of the legislature; and directing that the president of the council and speaker of the house be empowered to certify such fact upon the bill, instructing the superintendent of public printing to publish it with the laws of that session, and declaring that it was a law of Kansas territory. The journal of the house of representatives shows this fact.

On the 20th of February following, Governor Denver published an article in the “Herald of Freedom,” in which he denied the passage of the bill before the expiration of 40 days, and said:

“Being quite unwell that evening, I told Mr. Walsh, my private secretary, to give information of that fact, and that it was my intention to retire. Shortly after he left the room the house adjourned, and after his return I retired, leaving him and Mr. R. S. Stevens engaged in writing in my room. They were the only persons who had been there for two or three hours before. This was after 11



o'clock, and if Mr. Whiting was there it was after that time, and after the house had adjourned for the night."

This was an article of some length, but the quotation gives the gist of it.

To this I replied in the *Lawrence "Republican"* of February 25, saying:

"It may be a query how the governor knew who was in his room for more than three hours, and also that the house (more than a block away) had adjourned during the same period; and it strikes me that sensible men will come to the conclusion that the 'rumor' was concerning the adjournment, and that the sworn statement of Mr. Whiting, which is a matter of record, is worthy of at least as much credit as the governor's opinion, especially if he was sick and asleep. Mr. Whiting's statement is corroborated by Caleb S. Pratt,\* enrolling clerk of the council, who was at the door of the executive chamber with other bills. Mr. Whiting also says: 'Perry Fuller, Esq., of Centropolis, Franklin county, went with me from the house, and was by when I knocked at the door. Mr. Walsh, private secretary to Governor Denver, came to the door, and I offered the convention bill with the others to him. He said the governor had retired, and he could not receive any more bills that evening. I looked at my watch (which I had set by Governor Denver's) and found that it was exactly 10 minutes to 11 o'clock. Mr. Pratt also looked at his watch, and by it, it was 11 o'clock precisely.' This ought to be sufficient wide-awake testimony to overcome the opinion a sick man asleep. The fact was, that these active men had all their senses awakened in the idea that that bill might be 'pocketed.' They knew that every strategy known to the enemies of freedom would be exhausted to defeat it. I had prepared the bill, watched it at every turn with intense interest, put it personally in the hands of Whiting, and saw him start for the door of the governor's office before 11 o'clock. The next day I went to the governor's room on other business, and he said to me: 'Mr. Speer, I have heard that you said I was avoiding bills to prevent their passage.' I replied quickly: 'I said no such thing. On the contrary, I said precisely that I had no reason to believe you would do so, but General Jackson had 'pocketed' a bill, and I did not know whether you were a better man than General Jackson or not, but I would give no man the opportunity with a bill of mine if I could help it.' He said: 'I am glad to hear it.'"

Governor Denver was invited to be present at the old settlers' meeting, in Bismarck Grove near Lawrence, in September, 1884, and delivered an address. In that address he said, in reference to this bill:

"Well, I concluded I would not approve that bill for calling a convention to frame a new constitution. Several committees were appointed by the legislature to call upon me, begging me, if I would not approve it, to return it to them that they might act upon it. I told them no, that I had made up my mind, and that I was not to be moved; that I thought we had had constitutions enough, and that I had an absolute veto in that case, and that I proposed to exercise it, which I did.

"The next night, after 12 o'clock, a bill was brought to me purporting to be a bill calling a convention for a new constitution, and indorsed on it that it had been returned by the governor and passed by a two-thirds vote, notwithstanding these objections. That was signed by the four officers, the presiding officers of each house, the secretary of the council, and the clerk of the assembly. I immediately sent for them, and told them that while that act of theirs, if I was disposed to act upon it, gave me power to do something much to their disadvantage, I did

\* Caleb S. Pratt was a brave lieutenant killed at the battle of Wilson Creek, in whose honor Pratt county was named.



not desire to do it, because I did not want any trouble or disturbance in the territory; that that act was all wrong on their part; that they certified to that which was not true; that that paper had never been before the governor; that the bill sent to him had never been out of his possession, and consequently the whole statement was false.

"Mr. Currier had the bill in his hands. He asked me what I wanted them to do. I told him I wanted them to do one of two things. To give me a certificate of the fact that that had never been acted upon by the legislature at all, or else to destroy it there in my presence. They said that that would be pretty rough. Currier said that he would not put his name to any such paper as that, and said he: 'What shall we do with it?' Deitzler said: 'Destroy it.' He said: 'All right,' and tore it up and stuck it in the stove. That was the last of that bill.

"Now, a resolution was passed after 12 o'clock and the legal term of the legislature had absolutely closed—a resolution was passed declaring that that bill had been properly passed by the legislature, and they resolved that they would go on and hold the convention. Notwithstanding all that had occurred and the failure of the bill to become a law, they decided to hold the convention."

I have been thus exact in stating facts, because this was the turning point of the "crime against Kansas." The "pocketing" of a bill of that magnitude was an act of tyranny unparalleled in the history of republican government. We had arrived at a stage when almost the whole population of the territory was ready to battle to the death to make Kansas free. The enemy had made a constitution but a few months before, by a convention sustained by President Buchanan and his secretary of war, with tents and camp-fires around it, and the tread of soldiers on guard, and marshaled battalions all around; and it was against that that this free constitution had to battle. Without the troops no such convention could have been held. The passage of this law was by the following vote:

"Ayes: Messrs. Appleman, Barry, Brock, Bassett, Curtis, Columbia, Cooper, Danford, Elliott of Leavenworth, Hanna, Hatterscheidt, Jameson, Jenkins, Keller, Lockhart, Morrill, Moore, McClure, Mitchell, Owens, Orr, Pennock, Reynard, Speer, Still, Stewart, Shannon, Stratton, Wheeler, Zinn, and Mr. Speaker. 31.

"Every member present voting in the affirmative."

And then the same men made the following record:

"Mr. Hanna offered the following concurrent resolution, which was adopted, and council notified:

"Resolved, by the house of representatives (the council concurring), that we do hereby, for the last time, solemnly protest against the admission of Kansas into the union under the Lecompton constitution.

"That we hurl back with scorn the libelous charge contained in the president's message accompanying the Lecompton constitution to congress, to the effect that the freemen of Kansas are a 'lawless people.'"

"That, relying upon the justice of our cause, we do hereby, in behalf of the people we represent, solemnly pledge to each other, to our friends in congress and in the states, our lives, our fortunes and sacred honor, to resist the Lecompton constitution and government by the force of arms, if necessary.

"That, in this perilous hour of our history, we appeal to the civilized world for the rectitude of our position, and call upon the friends of freedom everywhere to array themselves against this last act of oppression in the Kansas drama.

"Resolved, That the governor be requested to immediately transmit certified copies of these resolutions to the president of the United States, speaker of the



house of representatives, and president of the senate, and to our delegate in congress, and that the same be presented to the congress of the United States."

I can know nothing about what Messrs. Deitzler and Currier may have said. Their actions I do know. The former presided over the house all the next day, and participated in and signed the proceedings as speaker; and the latter, acting as clerk, made and signed them; and when Mr. Walsh, the governor's private secretary, sent a message to the house, stating that the members must appear and sign the pay-roll, or he would leave for Leecompton, the speaker, sitting in his chair, very coolly remarked, that Mr. Walsh had his permission to leave at his earliest convenience.

I thus give my testimony on the Leavenworth constitution.

---

## MEMOIR OF PROF. ISAAC T. GOODNOW.

Prepared by REV. HUGH D. FISHER, D. D.

The subject of this memoir may be properly compared, in many-sided life, unto Abraham, the friend of God and man, who, by faith, went out, not knowing whither he went or what would be the result of his living influence and example.

Hon. Isaac T. Goodnow was born of puritanic parents, in Whittingham, Vt., January 17, 1814, and was a good specimen of the real gentleman and Yankee.

He departed this life, in his home in Manhattan, Kas., March 20, 1894. The time elapsing between the beginning and ending of his life was replete with instructive incidents of great value, especially to the young.

At the age of 14 occurred the crucial incident of his active, vigorous and successful life. He became a humble and devout Christian, by a thorough conversion, and clear and satisfying experience. At the age of 20 he resolved on obtaining a thorough education, he walked 80 miles to enter Wilbraham Academy, where he remained 14 years, first as student, then as instructor in English literature, and then as professor in natural sciences; in each of these relations he showed peculiar adaptability to receive and impart instruction.

August 28, 1838, he was married to Miss Ellen D. Denson, who accompanied him along his ever-brightening life for 56 years, and lives among friends in hope of a happy reunion with him in their beautiful home in heaven.

In 1848 Professor Goodnow was called from his "alma mater" to the chair of natural sciences in Providence Seminary, Rhode Island, where he continued successful work for six years. In 1854 he became intensely interested in the Kansas territorial struggle, and organized a colony of 200 to aid in making Kansas a free state. The colony was to start March 13, 1855. Mr. Goodnow and six others, March 26, just as the sun was setting, stood on "Blue Mount," the commanding site of the State Agricultural College, and viewed with delight the valley on which has grown the beautiful Yankee town, Manhattan. From that date, till the hour of his peaceful death, his heart and brain and life were consecrated to the educational, religious and material developing and uplifting of Kansas. He planned and raised from Methodist friends in the east \$20,000 for church and educational purposes in Manhattan. To him and his Methodist friends, more than to any others, the state owes an unliquidated debt of gratitude at least, for the planting, equipment and gift to the state of the grandest agricultural college in America, our first state institution of learning.





Mr. Goodnow was active in the formation period, when foundations were laid deep and strong, as in Roman cement. Our state public-school system, popular educational conventions, our normal schools and great university, all felt the inspiration of his mighty influence.

His was the founding and planting period and work, and right nobly did he succeed. He was chosen superintendent of public instruction in 1862 and re-elected in 1864, serving two terms. In 1867 he was selected to dispose of the munificent grant of lands given by the general government for agricultural-college purposes, and secured to the state by the outright gift of Blue Mont College to the state. Up to 1873, he had sold enough to insure an income of \$18,000 annually. He then became land commissioner of the M. K. & T. railroad, and disposed of over \$1,500,000 worth of land. In all these public trusts he always had an eye to the welfare of Kansas. He was strictly honest, and though burdened with care, always courteous and religious.

In later life he showed much interest in Baker University and made some valuable donations to her library and scientific apparatus.

He was always a deeply interested member of our State Historical Society, and was one of the most bountiful contributors to its collections.

Of him it may justly be said, he was a typical American, with high ideas of noble manhood, a patriot of purest motives, a scholar without boastfulness, a cheerful, happy Christian, who never added sorrow to the heart of any one, and who always delighted to alleviate the miseries of his fellow men.

Thus he became a pattern for old and young to live and die by.

Servant of man and God, well done; rest.

---

## SOLON OTIS THACHER.

Funeral discourse delivered by Dr. RICHARD CORDLEY at the Plymouth Congregational Church, Lawrence, August 14, 1895.

[Judge Thacher was, at the 'time of his death, President of our State Historical Society, having been elected at the annual meeting, January 15, 1895. He had long been a life member of the society. He was born at Hornellsville, New York, August 31, 1830. He died at his home in Lawrence, August 11, 1895.]

One of the hard things in a minister's work is that he must stand and speak to others of that which is a personal sorrow to himself. This is pre-eminently so at this time. Judge Thacher's life and mine have run very closely together. We came here to Lawrence about the same time; we were about of the same age; and we were each beginning our life work. For over 37 years we have been citizens of the same town and members of the same church. For most of that time he has been an official in my church, interested in all its progress, and active in all its work. Often it was his to make suggestions which I was glad to accept, and whenever I made suggestions he was always one of the first to sustain. Thus, as citizens, as friends, and as Christians, our lives have blended very closely together.

But I am aware that the sense of personal loss and personal sorrow which I feel is shared by the whole community. Judge Thacher was so large a personality that he was a great deal to all who knew him. The whole community is in mourning to-day. For two weeks they have been like one great household sitting by a dying bed and waiting the issue. Now that the last has come we all sit to



gether in the shadows, as men sit when the sun goes down. But as, when the sun goes down men wait for the morning, so we also expect the morning, as we pass under the shadows of the night.

Solon Otis Thacher was born at Hornellsville, N. Y., August 31, 1830. The family is of Puritan origin, their ancestor of the seventh generation, Rev. Thomas Thacher, having come to America from England in 1635, only 15 years after the landing of the "Mayflower" at Plymouth. On the forming of the Old South Church in Boston in 1669, he became its first pastor. Last summer when in Boston I saw his portrait in the parlors of the "New Old South," on Back Bay. In the historical museum in the old meeting-house on Washington street, I saw a letter of his in the closely-written style of that day. He was an able and scholarly man, and a man of strong influence. A century later, another in the same line of descent, Rev. Peter Thacher, was pastor of Brattle Street church, Boston. He was a very eloquent man, and was popularly known as the "Silver-Tongued Thacher." March 25, 1776, he addressed the colonial troops near Boston, and made a statement of the grievances against Great Britain in almost the exact wording of the declaration of independence, several months before that document was written. The sermon was published and circulated all over the country.

Otis Thacher, the father of Judge Thacher, was one of the early settlers of Steuben county, New York. He came there from New England with his brother, Morey Thacher, the father of Hon. T. Dwight Thacher, in the early part of the present century. He was a man of sterling qualities, and had much to do in molding the institutions of that new country.

Solon O. Thacher was educated at Alfred Academy, not far from his home in Hornellsville, and then at Union College, Schenectady, N. Y. The president of the college was Dr. Eliphalet Nott, one of the most famous educators of this century. He was president of Union College for 62 years, and nearly 4,000 students graduated during his term of office. While a young man he preached a remarkable sermon on the death of Alexander Hamilton, who was killed in a duel by Aaron Burr. The sermon made a tremendous sensation, and was one of the chief influences in doing away with the practice of duelling. It also had much to do with breaking the power of that erratic and dangerous genius, Aaron Burr. Doctor Nott was a man of great personal magnetism, and inspired his students with high ideals. The Thachers also came in special contact at Union College with Dr. Laurens P. Hickok, a leading thinker in mental science, and Prof. Tayler Lewis, one of the most distinguished classical scholars of his day. These great men not only taught their students in the departments assigned them, but inspired them with lofty purposes and high ideals, and great moral earnestness.

Judge Thacher's career in Kansas is a matter of common knowledge. He has been in Kansas during the entire period of her existence as a state. He was a member of the Wyandotte constitutional convention, under which we have lived for a third of a century. The portions pertaining to the judiciary, and to the legislature and to schools, are specially indebted to him for their superior features. Several times since he has been a member of the state senate, and many of our best laws are the fruit of his suggestion and labor. Lawrence and Douglas county are peculiarly indebted to him for legislation in their favor. In everything that affected the interests of this community, he was always looked to as the one to secure what was needed. In the development of our State University his influence has been a leading factor in its success. He was not only the unfaltering friend of the university, but his



friendship for any cause meant so much because he could do so much. He has been several times proposed for the United States senate, and his eminent fitness for that office is universally conceded. I have heard prominent public men in different parts of the state say, "What a pity Judge Thacher cannot represent us in the United States senate." When Dr. Leonard Bacon was proposed for the presidency of Yale College, a political paper of New Haven opposed his election with great persistence, and finally secured his defeat. One of the arguments the paper used to attain this result was, "that Dr. Leonard Bacon was too great a man to be president of Yale College." In a similar way, Judge Thacher was too great a man for United States senator—not greater than the position needed, but greater than the politicians wanted. But great men do not need position so much as position needs them. Judge Thacher's place in the development of Kansas is secure without regard to popular recognition. His influence has been wrought into the organic structure of our commonwealth, and his life has been a large factor in her history. His memory is the common heritage of all the people. Without any qualification, we may say he was a great man. We shall now realize as we never did before how large a place he filled, and in how many lines we leaned upon him and looked to him. His far-seeing wisdom has often found for us the way, and his broad vision has often kept us in the open channel. His counsel was always well matured and safe.

If I should characterize Judge Thacher, I should say he was especially marked by largeness and breadth. He was a large personality. He was one of the men that grow upon you as you know them. The more you knew him, the more you found there was of him.

He was broad in his intellectual equipments. He was strong in many lines. In his own profession—the law—he was confessedly among the first. But he was as much at home in literature as in law. He was as familiar with all phases of theological thought and biblical criticism as if that had been his special study. During one of his trips abroad, he wrote for our home paper of some methods of agriculture in France, from which it was evident that he was as well versed in agriculture as if it were his business. He had traveled extensively in Europe and Asia and South America. In traveling, he seemed to gather to himself all that pertained to the places he visited. He could not only describe them as he saw them, but could give you the local history, and the legends and lore that clustered around each place. In speaking of places in Palestine, he linked the Bible scenes and incidents with each locality.

He was broad in his views as well as in his mental furnishing. He saw all sides of the subjects he considered. He could see the force of the opposing logic. Extremists sometimes thought him undecided, but they mistook judicial fairness for indecision. No man could hold more steadily to the thought he had settled upon as right.

He was broad, too, in his sympathies. He always took the kindlier view of men and of conduct. He was slow to condemn and quick to excuse. If others uttered harsh judgments, he always saw reasons for softening them. He saw the palliating circumstances. Many years ago when he was superintendent of our Sunday-school, we were one evening studying in our teachers' meeting the story of the woman of Samaria at Jacob's well. Contrary to the common view, he insisted that the story did not prove this woman to be anything but a virtuous woman. He said the whole story would bear that interpretation, and the respect in which she was evidently held by the people of the town indicated the same thing. Then he said, it was a principle of law that every one was entitled



to the most favorable interpretation their conduct would bear. In judging this woman, we were bound to give her the benefit of the most favorable interpretation of the story, just as really as if we were in the jury-box. I mention this simply as an illustration of what I mean by his breadth of sympathy. It exactly illustrates a very marked characteristic of Judge Thacher's nature. He was always disposed to judge of people as he judged here, giving them the benefit of the most favorable interpretation. He was disposed to palliate rather than condemn. He always leaned to the gentler judgment. I am speaking of him in his common intercourse with men, and not as lawyer or judge in court.

No one could ever know Judge Thacher at his best, who did not know him in his religious life. He had a very profound religious nature. His religion took a very deep hold upon him. It was a very large part of his life—a much larger part than most people thought. It was the deep underflow of his nature. I do not think he ever studied theology as a special study, but he was perfectly familiar with the whole field of theological thought. He had definite views of his own on all points considered in the progress of modern theological thinking.

His knowledge of scripture was especially remarkable. Refer him to any passage, and you would find that he was not only familiar with the passage itself as it stood, but also with what had been written about it, and the opinions which had been held concerning it. In expounding scripture in his Bible class, he charmed all who listened by the information from every quarter which he would bring to bear on the text. He would not pretend to explain every portion of scripture, but he could tell what different commentators had written, and the various opinions held concerning it. All this made him a wonderfully interesting Bible-class teacher.

I remember very distinctly when he told me, soon after his coming, in 1858, that he had decided to identify himself with our church. From that day to this he has been loyal to the church, and her interests and good name were as dear to him as his own. In all her progress he was prominent among the impelling forces, and in every emergency he was one of those who always stood in the gap. For many years and several times he has been superintendent of the Sunday-school. He threw his whole life into the work of the school, and drew the children very closely to him, and was in turn drawn very strongly to them. I remember a family who lived some three miles out in the country. They were very poor and destitute, and they lived in a little hut, as most of the farmers did at that early day. They never attended church and had no special affiliation with us. But some of the children came into Sunday-school. In the summer one of the children died, and I was called upon to attend the funeral. It was entirely a neighborhood gathering of the farmers round about, but when I arrived I found Mr. Thacher there. He had walked the three miles or more in the broiling sun, and was there in that little hut speaking words of kindness and comfort to the forlorn and stricken household. Scores of little things like this, which nobody knew unless they happened to stumble upon them, showed the largeness of the man's heart and the tenderness of his sympathy.

As a member of the board of trustees, almost from the first, he gave his best business judgment to the church, and helped her through many a stress. Several times he has filled the pulpit, to the delight of a crowded house. But it was in the prayer-meeting where his presence was most conspicuous and potent. As all know, he had rare gifts of speech, and it was in prayer that the soul of man found its best utterance. In his talks he might express doubts of this thing or that, but in prayer it was all assurance and faith. He never seemed to approach God, but he was with God the moment he arose. There was no impression of





"far-offness" as he called upon God. He seemed to stand before God and speak to him as a man speaks with his friend. Yet there was the most profound reverence mingled with the utmost simplicity and confidence. His prayers were always a study and an inspiration to me. He always commenced his prayer in a sort of formal way. But this was only for a moment, while he was getting his balance. In a little while he began to lighten by degrees, as the sun comes in the morning, and soon his whole soul was aglow, and we were all bathed in the light. There was the utmost spontaneousness and simplicity combined with the most classic beauty of utterance. His prayer refreshed you with its spirit and pathos, and also charmed you with its beauty and finish. He was utterly unconscious of any attempt to choose his words, but his spirit poured itself out in that elevated strain which is possible only to a soul that is ablaze with God. If ever he surpassed himself in this, it was when there was some great sorrow in the church. And that was very often the case, for a church is a sort of large household, and the sorrow of one is the sorrow of all. In such cases Judge Thacher was always deeply moved, and the felicity and delicacy and sympathy with which he would lift the stricken ones unto the presence of the Lord of all comfort was something never to be forgotten. His voice of wonderful pathos and power is one of the many which has consecrated our upper room, and made it a very Bethel to those of us who remain. It has grown richer every year with the legacy of faith left by those who have gone on.

His was a very untrammelled faith. He had reviewed and revised his traditional faith, but he had settled upon the essentials by a conviction of his own. In his thoughts, God was very great and near. He made more and more of the personality of Jesus Christ, and his faith all revolved about Him as the great center of truth. It was a favorite expression of his, "that the coming of Jesus Christ was the great central event of the world's history. Christ was the great force in the uplifting of the world, and the only hope of human redemption."

The firmness of his Christian purpose and the depth of his spiritual life became very manifest growth as the years passed away. Every one who was near enough to know him could not help but note an increasing depth and richness of spiritual experience. As Deacon Wood said this morning, his growth in the graces of the spirit, in gentleness and patience and trust, were noticed by us all. And they were manifest more and more. His religion was everything to him. A gentleman who had once believed, but had lost his hold on the faith, was telling him of his change. "Well," said Judge Thacher, "all I can say is, I am sorry for you. If I should ever come to that I should be of all men most miserable." But his growth was in the other direction, more sure, more deep, more satisfying. He ripened with the years, and now has been gathered as a shock of corn in his season.

He met death as he had lived his life, quietly, calmly, and trustfully. He never said anything for effect. He did not talk much now, but the few words he did say showed the same calm judgment which always characterized him. When asked by his family what they should do, he replied in clear tones: "Keep on doing the best you can, then leave it. Don't worry. It is all right; it is all for the best." The whole philosophy of life is summed up in that one sentence. At another time he said: "God will have you in his care and keeping." His great soul lost none of its strength as the body failed him, and he seemed to pass away in that fulness of vigor which suggests that "mortality was swallowed up of life."

It is hard to conceive of Plymouth church without Judge Thacher. To miss him from his accustomed place will be like missing a part of the building. He



was never absent from church when it was possible to be there. With him attendance at church was like the routine of home life. Yet it was far from being a mere routine. He loved the church, was its steadfast friend and helper. And his friendship and help always meant success in the thing undertaken. He was a large factor in all the history of Plymouth church—in building this church, in paying the debt, in building the parsonage, in every emergency. He was not only a liberal giver, but an inspiration and a stimulus to others. But he has now passed over to join a large throng who have gone from our church, and his has been added to a long list of shining names on the other side.

It is a large vacancy such a man leaves behind him. I think this community never knew till now how large a place he filled. Not his own church alone, but all the churches will miss him, for he was a friend to them all, and of every good movement for the betterment of the community. And the support of such a man means so much for he can do so much. And the whole state mourns with us to-day, for he was known and honored in the remotest hamlet of our commonwealth.

But we can none of us forget that there is a narrower circle in which this is the supreme thought. Mr. Thacher loved his home. His home was everything to him, and he was everything to his home. Words would fail me if I should attempt to tell what this means within that sacred circle. It is not mine to explain the providence which has bereaved them, and it is not mine to lessen the loss they have sustained. But it is mine—and such I interpret my commission from God—to remind them of truths which he who has gone, and we who wait, all believe. He believed, and we believe, in God the Father, who loveth all His children. He believed, and we believe, in Jesus Christ, who came from the Father and would lead us to Him. He believed, and we believe, in the immortality which Jesus brought to light, and out of which He came and back to which He went, and of which He said, "I go to prepare a place for you." The vacancy and the sadness are all here where we wait, and not there where he has gone. It is we, not he, who walk in the valley of the shadow of death. He has walked forth into life. We speak of him as falling in the midst of his days, in the very ripeness of his powers. But nothing has been lost. Those magnificent powers have not been extinguished, and those splendid equipments have not been wasted. For those whom God calls do not go into mere empty existence, to float on the boundless sea of being. But they go into life, where there are living interests and employment and progress. God wastes nothing, God destroys nothing—least of all the powers of an immortal spirit. We believe in the life everlasting on the testimony of Him who spake that He did know and testified that He had seen. To those whose sorrow is the heaviest, I can simply remind you of these truths, and add, "Comfort one another with these words."



## THE EARLY SETTLERS OF KANSAS.

## THEIR TRIALS, PRIVATIONS, HARDSHIPS, AND SUFFERINGS.

Annual address of Gov. EDMUND N. MORRILL, President of the Society, delivered at the annual meeting, January 21, 1896.

Members of the Historical Society, Ladies and Gentlemen:

At the annual meeting of this Society held a year ago, you honored one of the ablest and most distinguished citizens of our state by electing him President of the organization, and he reflected credit upon you and upon the state by accepting the trust. He has since passed from our midst, and joined the innumerable host that have gone to that silent land from which no weary traveler ever returns. In his death this Society and the state suffered an irreparable loss. As a ripe scholar, a pure and upright citizen, a Christian gentleman, who without ostentation lived a life worthy of his profession, an able legislator, whose counsels were always wise and judicious, he had few equals and no superiors. It had been my good fortune to know him for more than 30 years, and I respected and revered the man. He believed in Kansas, and had faith in her. He was ever ready to raise his voice and wield his pen in her behalf. The beautiful city in which he lived and of which he was an honored citizen, the university located there, which was his pride, and for which he labored loyally and unceasingly until his death, the state and the Historical Society suffered a sad bereavement when the grave closed over his honored remains. In this Society the name and fame of Solon O. Thacher will ever find a sacred place, and will be lovingly and gratefully cherished by the people of the state he served so faithfully and loved so well.

The political history of Kansas has been ably and exhaustively treated by the many writers whose works have been gathered within these walls. The material growth and development of the state has been so rapid since the first settler found a home on its soil, less than half a century ago; so many of those who participated in its early struggles and helped to make its history are still living; the early organization of this Society, and the faithful and efficient labors of its worthy Secretary, who has so efficiently discharged the duties of the office, have supplied it with such a rich fund of material, that it has not been as difficult to gather the facts in detail and with an accuracy as it would have been had the work been longer delayed. Nothing of importance of a public character has been omitted. There is one line of thought which perhaps deserves a more extended notice, and which had much to do in shaping and developing the character of our people. I refer to the early trials, the great privations, the hardships and sufferings of many who sought homes on her soil in the early days soon after the territory was organized.

The long and exciting debate in congress arousing a bitter sectional feeling, which preceded the enactment of the law providing for the organization of the territory, aroused an intense interest all over the country, and many who would not under ordinary circumstances have left their homes in the more settled sections of the country to endure the privations of pioneer life were prompted to come here, to aid in making our commonwealth a free state. Under these conditions, many left homes of comfort and of refinement to do battle for the cause of justice and freedom. To many of these the privations of a new country, the hardships and sacrifices always incident to and during the



early settlement of a state, were almost fully unknown, and were far more severe and much harder to endure than usually falls to the lot of him who has always sought a home on the frontier. From my own personal experiences, I can speak truthfully of the hardships and deprivations of those who came in the early days. While many doubtless realized something of the sacrifices of comfort they would be called upon to endure, they felt they would be of short duration, and the rich returns they would receive for their labors would be an adequate return for all they would be called upon to endure, and they believed that these sacrifices would be but temporary. Others there were who had no conception of what it meant to make a home in a new and entirely unsettled section. To them the disappointments and the sufferings were entirely unexpected, and they soon became discouraged, and returned to the comforts and refinements of their eastern homes.

In these days of railroads, of telegraphs and telephones, with which almost every section of the country is connected, when but few of the counties in our state are not traversed by the railroad trains, when post-offices are dotted all over our prairies, almost every cross-road being supplied with one, few reflect that the very early settlers had none of these conveniences. The nearest railroad then was more than 150 miles from our eastern border. Our only means of public transportation was by the river. We had no post-offices and no mail routes. While these came with reasonable promptness as the settlements increased, it was years before we had anything like the service of the older sections of the country. Settling in one of the most eastern counties, it was months before we had a post-office nearer than 25 miles. Letters from friends in the East were long delayed, and a newspaper two weeks old was a rare treat, and was eagerly seized and read. Our usual mode of travel was with an ox team, and it required two days to go from my home to and return from the post-office and the nearest store where we could get the necessary articles to supply our most pressing wants. Few of our people now living hardly an hour's ride from the post-office and store realize the inconvenience and cost which attended this condition of things. A striking illustration of this might be given in the experience of one of my neighbors. He was so unfortunate as to break his ax while chopping wood one frosty morning in winter, and to replace it he was obliged to go 40 miles, making it a very costly implement. The nearest physician lived nearly 25 miles away, and could only be summoned in the most pressing cases, as his fee was from \$15 to \$25 for a visit.

Full of hope, charmed with the beautiful prairies that lay stretched out before him, the early settler encouraged his devoted wife by telling her that by another year they would have some of the comforts and luxuries of life. He little realized the difficulties to be overcome, and how exceedingly slow in most cases the improvement would be. The frontiersman brought to his new home a small amount of money, hardly enough with prudence and care to provide the necessaries of life for a year, trusting that he could then raise a crop and secure enough income to live comfortably. Very rarely did these bright hopes materialize. Opening a farm with scanty means was at best slow. With but a small supply of farming implements, with no neighbors from whom they could obtain help, there were many delays under the most favorable circumstances, and the weeks and months wore away with far less accomplished than had been planned and expected. There was no lumber to be had; no money to pay for it, even if it had been abundant and at hand. From the timber which skirted the beautiful streams the logs must be secured with which to build the log cabin, and to get rails with which to fence the land that could be put under cultivation. The





first year's crop was, therefore, necessarily small, and beyond the needs of the family little remained to be disposed of, though there was usually a good demand from the settlers who were moving into the territory.

In 1858 the immigration into the state, which the previous year had been large, almost wholly ceased, and the settlers who in the preceding year had been able to find employment from others were left entirely dependent upon their own resources. Thousands that year, having secured their titles to lands, abandoned the country and returned to their eastern homes. There was literally no money in the territory that year. To add to the distress, for some unknown reason which I was never able to comprehend, President Buchanan had ordered a sale of the public lands in this district, thus compelling the early settlers who were pre-emptors to pay for their homes or run the risk of having them pass into the hands of eastern speculators. The homestead law at this time had not been enacted. The lands were taken under the pre-emption act, which required a settlement of a year, and gave the president authority at any time after that year to require the lands which were not paid for to be offered at public sale. After having been offered at public sale, they became subject to private entry, and any one, without any notice or any settlement of the land, could go to the land-office and secure a title by paying the government price. The result of this act of the president was to compel many of the early settlers to borrow money from the speculators, who usually furnished the necessary land-warrant, worth then \$175, for which the settler was obliged to mortgage his home for \$250, payable in one year, with 12 per cent. interest.

The season of 1858 proved to be an extremely wet one, causing a large amount of sickness. The fever and ague, now almost entirely unknown in the state, prevailed everywhere, and few escaped a season of that distressing sickness. In many cases whole families were taken down, leaving no one able to care for the others. Wells were almost unknown, the settlers relying upon the nearest spring for a supply of water. Many of their cabins were located quite a little distance from these springs, and the sufferings for the want of pure water in these cases of fever were intense. The deep privations and the sacrifices fell most heavily upon the women. Scattered though the settlements were, the men could easily arrange to meet each other, and to enjoy to some extent the pleasures of social life; but for weeks and months the poor woman, toiling early and late for her husband and her little ones, could not look upon the friendly face of her own sex. This would be hard, indeed, under the most favorable conditions; but deprived of the comforts of life, struggling day by day to provide for the most pressing wants, it was almost unendurable, and when sickness came, or when anxiously watching by the sick-bed of her little one she could not give it the little luxuries for which it was most earnestly pleading, it was a bitter sacrifice. But sadder than all else was the hour when she was called upon to part with her loved one, with no woman's tender heart to whisper words of comfort and consolation. Again and again have I witnessed these scenes.

On a dreary March day in 1858, the bitter winds from the north sweeping over the land, I stood with a few neighbors at an open grave on the bleak prairie. A little child—the joy and sunshine of a poor couple who lived in a rude cabin—was laid away for its final rest. The heartbroken parents took the last look at their loved one. No minister of the gospel was present to speak words of comfort to the bereaved parents, but the neighbors tenderly performed the last sad rites, and with swarming eyes spoke words of loving sympathy. I can conceive of no sadder scene, and while memory lasts that picture will never be effaced from my mind.



Another instance of peculiar sadness came under my observation. In 1857, a gentleman of culture and ability—a publisher of a daily newspaper in a beautiful city in the extreme East—fascinated by the glowing accounts so freely published of the beauties of Kansas and its delightful climate, disposed of his business there and came with his wife—an educated and refined lady—to make a home in the new West. The conditions that surrounded him, and for which he was wholly unfitted, were entirely different from those he had left. His first effort was to secure a shelter, and on one of the banks of one of the many streams that are found in the county he bought from a former settler a log cabin, and moved into his new home. Full of courage and of hope, he soon after engaged in a new and to him an entirely untried business. Disappointments and misfortunes followed in quick succession. Earnestly he struggled to overcome the almost insurmountable difficulties which presented themselves. The misfortunes and labors undermined his health, and the next summer he fell a victim to the fever which was then so common. During the weeks of illness, his devoted wife, deprived of the comforts and necessaries of her eastern home, with no loving friends to sympathize with and assist her, cared for him with all the tenderness and love of a true wife, until the fatal day came when she found herself far away from kindred and friends—a widow in a strange land.

Another instance will be given to record the difficulties under which we labored in cases of pressing need. An old man and his two sons had attempted to build a shanty on their claim. Overtaken by fever and ague, they were unable to put a roof on it, and to protect themselves from the rain they had thatched a little space over their bed with the long prairie grass. In this hovel the old man died. The nearest neighbors, when notified, at once went to work to provide a decent burial. Great difficulty was experienced in finding lumber for the coffin. At last one of the neighbors offered a few boards which were used as a temporary floor in the loft of his cabin. The little stream which flowed through the settlement had become swollen by the heavy rains, and the only way possible to transport the boards to the house was by taking one at a time upon the shoulder and swimming a horse across the stream. This was done, a rude coffin was constructed, and the remains were given a decent burial.

Instances of equal suffering were by no means unfrequent, and are doubtless incident to every new country, for the early settlers of any section are invariably men of small means, and when these were exhausted they were compelled to look to the soil for subsistence and to supply their wants.

The first year was by no means the hardest one. With few exceptions, the second or third year found the settler in more straitened circumstances than before. This was especially true of the pioneers of Kansas, except that the phenomenal immigration of 1857 and the money which was brought in by those who came to purchase Indian-trust lands proved a source of profit to all who had anything to dispose of. The settlers that spring were few; the cabins were scattered, but they were soon filled to overflowing with the newcomers, who sought shelter while they looked up lands for themselves, and they liberally paid those who were familiar with the matter to assist them in doing so. I knew one little cabin only 14 feet square, with but one room, where they took four boarders, though there were four children, besides the man and his wife. In another instance, a family of six, with three small rooms, took 15 boarders. It was a rare thing that any one was refused shelter, even though the family suffered great inconvenience in providing for the stranger.

The year 1859 brought an abundant crop, but it could only be disposed of by hauling it to the river, to be shipped to St. Louis, or by freighting it to the



mountains. Pressed for money to provide the necessaries of life, those who had raised a crop quickly parted with it, retaining only enough to last them until another could be raised.

The winter of 1859-'60 was cold and very dry; March and April very windy, and almost entirely without rainfall. Inspired by the rich returns of the preceding year, every possible acre was put into crop. The people plowed and sowed a larger amount than ever before. May and June passed away with scarcely a shower. Still they worked on with renewed vigor, hoping and praying that the later summer months would bring the needed rain to save their crops, but they were destined to feel a bitter disappointment. July and August brought no relief. Nor did the needed rain come until too late to benefit the crops of that year. It was literally a year without rain and almost without a cloud, and an absolute failure of crops was the result. Words are inadequate to describe the bitter disappointment of those brave men and women who had so courageously borne the hardships and privations of the previous years, looking forward to the time when they could provide their loved ones with the necessaries of life. As winter approached, they found themselves with nothing in store for the long cold months. Starvation literally stared them in the face. Hardly any families were able to live comfortably even in the early part of that winter, while the great majority had barely enough to support life. Many saw no flour during that long winter, living solely on corn-meal, and depended upon the game they were able to kill for meat, and this they had to obtain from day to day as best they could. Had it not been for the generous hearts and willing hands in the more favored states, many could only have been saved from starvation by abandoning their homes and seeking relief farther east.

The winter of 1860-'61 will never be forgotten by those who spent it in our state. Volumes could be filled with instances of individual suffering and hardship. A good woman in one of the northern counties, in telling of her experience, said, among other things: "We found one day that our scanty supply of provisions was growing alarmingly small. My husband said the next morning he would start out to replenish the wasting stores. When morning came it brought a severe snow-storm and blizzard. To go out with no neighbors within a mile or two would have been to risk his life. At noon that day we cooked the last morsel of provisions in the house. When the shades of evening gathered around that prairie home no preparation for the evening meal was made. The little ones could not understand it, and soon commenced their importunities—'Mamma, why don't you get supper?' 'Mamma, I am hungry!' 'Mamma, can't you give us some bread?' No explanation could satisfy them, and during that long winter evening that poor woman suffered untold agony because she was not able to gratify the hunger of her little ones. At last, worn out with their importunities, they dropped to sleep, and she put them supperless to bed. The next morning the husband succeeded in getting a little food from a neighbor."

One of the most surprising, and to me most pleasant, features of that time, though I confess it was entirely unexpected, was the hearty, kindly feeling that existed among the settlers. All were on a common level; all felt their dependence, and most gratefully accepted the relief so generously bestowed by the good people of the states farther east. Realizing that all the earthly store they possessed was in their farms and homes, they hoped to be able to live through the winter and until another harvest time. To remain was a matter of absolute necessity, for they had no place to go with any hope of bettering their condition, even if they had had anything to go with. This feeling of dependence resting on



all, filled them with a hearty sympathy for each other that is rarely manifested under more favorable conditions. I think I can say with absolute truth that there was less complaint and less murmuring with their condition than can be found even to-day in the most prosperous part of our commonwealth. Few had any groceries that winter. Potatoes were unknown, and many families lived entirely on the kindly aid sent in from other states. Few had sufficient clothing to protect them from the bitter winds of winter. Even the sacks in which this aid was sent were eagerly sought and used for clothing. This was, indeed, a bitter experience, and a sad disappointment to those who, for five long years, had toiled to secure comfortable homes. It was simply impossible to obtain money at that time. There was absolutely no labor for those who sought employment, even though they were willing to work for mere subsistence.

An incident occurred that summer which shows the scarcity of money and the great needs of the people. A republican national convention was to be held. The many friends of Mr. Seward in the territory, recognizing his able services in their behalf, determined that a delegation should be sent that would support him. A. C. Wilder, chairman of the central committee, and a warm supporter of Mr. Seward, wrote a letter to a friend there urging that a delegate be sent from that county to the territorial convention favorable to Mr. Seward. A county convention was held, but no one was found who was willing to go. Those who could find time had no horse, and those who had a horse and who could spare the time had no money to pay the expenses. After gravely discussing the matter, a contribution was taken up to defray the expenses of the delegates. Some gave 25 cents, some 10 cents, and others less, until \$1.50 was raised to pay the expenses of the journey of 75 miles. Armed with the necessary credentials and a letter to Mr. Wilder, the delegate attended the convention. That letter was written by one of Kansas' most distinguished citizens, who for many years occupied the highest position in the gift of the people of the state.

This presentation of the hardships and sufferings of the early settlers is not overdrawn, and is simply given to show how bravely and manfully the pioneers of our state toiled and struggled to make themselves homes and lay the foundation for our great state. The influence of those early struggles has had a marked effect upon the subsequent development of our commonwealth. Characters were developed, strong and pure and noble, which exerted their influence in the years which followed. And the early settlers, even in their poverty and privations, did not forget the church and the schoolhouse. Before they had any buildings suitable for public worship, they met during the warm weather in groves to hold religious services, and long before they were able to provide themselves comfortable shelter for their families they worked to organize school districts and build schoolhouses. Without a murmur they deprived themselves of the comforts of life. They deemed no sacrifice too great, no hardship too severe, to enable them to provide for the means of educating their children. The result of this spirit so universally manifested under such discouraging circumstances is shown to-day in the grand educational institutions of our state. The same spirit that actuated the brave pioneers, the same indomitable courage and perseverance, is manifested to-day among those living in the newer sections of our state. Braver men never lived; truer men the sun never shone upon; and it is men of this character who have made their impress upon Kansas and Kansas institutions. Much that Kansas is to-day she owes to the foundations laid by the brave pioneers. Kansas represents to-day, to a marked degree, the principle of human





freedom in its fullest sense. And the object and aim of this Society has been and ever should be to present to our people the fullest and most perfect history of the struggles and sacrifices and the sufferings endured in behalf of liberty.

---

## ROBERT P. FLENNIKEN.

BIOGRAPHICAL SKETCH BY B. F. FLENNIKEN.

Secretary Kansas Historical Society, Topeka, Kansas:

Responding to your repeated and cordial requests for a sketch of the career of Robert P. Flenniken, who was the democratic candidate for delegate to congress from Kansas in the year 1854, and who seems to have dropped out of the recollection and memory of all men so far as Kansas history is concerned, I beg to offer you this brief and imperfect sketch, prefacing it with the statement that the data at my command are limited.

I remember him well, and I remember when the Kansas excitement spread over the southwestern part of Pennsylvania, which resulted in so many of the best men of Pennsylvania leaving their native state to make Kansas free. My section contributed to Leavenworth county the Hooks, Pennock and Higinbotham families, and along with them came Hon. John Phelan, of Waynesburg, and the subject of this sketch, my great-uncle, Robert P. Flenniken.

Robert P. Flenniken was the youngest son of John Flenniken, a signer of the Mecklenburg declaration of independence, and was born in Cumberland township, Greene county, Pa., March 4, 1804. His early education was obtained in the common schools of his native county and at Greene Academy, Carmichaels, Pa. He learned the trade of a millwright, and while engaged in his avocation he accidentally made the acquaintance of Hon. Andrew Stewart, "Tariff Andy," who was at the time a candidate for a seat in congress and making a canvass of Greene county. Mr. Stewart was attracted to the young mechanic, and invited him to come to his office and study law. The kind offer was accepted, and in due time, October, 1831, he was admitted to practice at Uniontown, Fayette county, Pennsylvania, and became a partner of his preceptor. They enjoyed a large and lucrative practice.

Mr. Flenniken was an ardent admirer and warm supporter of General Jackson, and took an active part in the political campaigns of the time.

He was elected to the legislature of Pennsylvania from Fayette county in the year 1840, and served three successive terms, the last year, 1842, being chairman of the committee on ways and means of the house of representatives. In this position he distinguished himself, not only for the business measures he introduced and successfully enacted into laws, but as a statesman of ability. He formed during his legislative career at Harrisburg the intimate acquaintance of James Buchanan, Simon Cameron, George M. Dallas, and all of the distinguished men of Pennsylvania, and, indeed, of the nation, at that time.

In 1846 he was appointed by President Polk minister to Denmark, and was recognized as a diplomat of rare ability. Upon his return from Denmark he resumed the practice of law at Uniontown, Fayette county, Pennsylvania. In 1854, as stated, he came to Kansas, and settled in Leavenworth county, and it may be frankly said he came with the intention of "running for con-



gress." There were a large number of Pennsylvanians in the company, and his brother-in-law, Hon. John Phelan, made large investments in Leavenworth and Lykins (now Miami) counties.

At the election held on November 29, 1854, he received 305 votes. General Whitfield, by reason of the support received from his friends in Missouri, received the certificate of election, and was recognized as delegate in congress from Kansas.

Mr. Flenniken thought seriously of contesting this election, but after consultation with his supporters in Kansas, and political friends in the East, the idea of a contest was abandoned.

After the election he returned to Uniontown, Pa., and shortly thereafter removed to Pittsburg and opened a law office.

In 1858 President Buchanan appointed him United States judge for the territory of Utah, which office he filled until his removal by President Lincoln in 1861.

He again returned to Pittsburg and resumed the practice of law, and shortly thereafter he was made the democratic nominee for judge of the court of common pleas of Allegheny county; but the county being overwhelmingly republican, he was defeated, though running handsomely ahead of his ticket.

During the war, he was a loyal supporter of the government, and two of his sons served in the union army. About 1870 he moved to San Francisco, Cal., where he died in the year 1879.

In appearance he was tall, and was a perfect specimen of physical manhood; in manners dignified and courtly.

In religion he was a firm believer in the doctrines and faith of the Presbyterian church.

He was an able lawyer, a conscientious legislator, a just judge, and an honest man.

He was honored by his country, respected by all, beloved by his relations; he lived and died a true Christian gentleman.

Emporia, 1896.



## DOCUMENTARY HISTORY OF KANSAS.

---

Volumes three and four of this series of collections of the Kansas State Historical Society contain the executive minutes of the first three governors of Kansas Territory, Andrew H. Reeder, Wilson Shannon and John W. Geary; embracing the daily journal of the transactions in the governors' offices during their respective terms; also correspondence and other official papers not included in the minutes.

The papers which here follow in this fifth volume of collections are intended to complete the documentary history of Kansas Territory. They comprise, first, some official papers connected with the transactions of the first three territorial governors, Reeder, Shannon and Geary, and which were omitted from the former publications; and next, the executive minutes and official papers of Govs. Robert J. Walker, James W. Denver, and Samuel Medary, together with those of the four secretaries of the territory, who for short periods became acting governors, namely, Daniel Woodson, Frederick P. Stanton, Hugh S. Walsh, and George M. Beebe, and papers pertaining to the legislative sessions during these administrations. The papers of Governor Denver during the time of his service as acting governor and before his commission as governor are included with the other papers pertaining to his term as governor.

Brief biographies of the first three governors were given in the former volumes. Such biographies are here given of all the others, including the acting governors. The official papers here published have been for the most part copied from the official copies in the office of secretary of state, at Washington, where they have remained unseen since the time they were transmitted; the last of them for more than 35 years. That they have now been recovered and brought to light has been through the disinterested efforts of Hon. R. W. Blue, and his zealous aid and helper, Hon. Albert R. Greene. Colonel Blue, in order to obtain access to these records, personally interviewed Secretary Olney on the subject.

As materials of Kansas history, these records are of inestimable value. Without them the true history of Kansas could not be known. And with them, solely, the true history of Kansas cannot be known. For, a very slight perusal of some of these documents will show on their face that they are of a highly partisan character. The territorial



governors of Kansas acted at a time of unparalleled political excitement. These governors were between two fires in the first stages of the War of the Rebellion; for he who reads Kansas history in any other light than that thrown upon it by the whole history of the great national struggle for the overthrow of slavery and the perpetuity of the union reads blindly. All these governors eventually came to see the great issue in a new light; all became ranged on the union side; some of them acted prominent parts in the great Union army.

The publication of these papers at this time will enable residents of Kansas yet living who know of all the facts to correct many errors which these papers contain. Through misinformation of a partisan character brought to these governors by their agents and by other informers, great bias of judgment was caused. It is greatly to be desired that such persons as O. E. Morse and Mrs. Morse, Mrs. Gov. Robinson, O. E. Learnard, B. W. Woodward, Charles W. Blair, James B. Abbott, Edward Smith and others will scan these papers and will put in writing their testimony as to the facts pertaining to the events to which they refer.

Attention is called to the very full indexes, both alphabetical and chronological, which are contained in these volumes of collections. These indexes, together with the most invaluable chronological history of Kansas found in the volume of "Annals of Kansas," by Daniel W. Wilder, form a key to the history of Kansas such as is not to be found in historical works pertaining to any other state.

---

#### SECRETARY AND ACTING GOVERNOR WOODSON.

The following biographical information is taken chiefly from a lengthy biographical sketch published in Col. D. Stewart Elliott's Coffeyville "Journal" of October 12, 1894.

Daniel Woodson was born in Albemarle county, Virginia, on the 24th of May, 1824. He died October 5, 1894, at Claremore, I. T., at the residence of a son, whence he had been removed from his home in Coffeyville, Kas., for the benefit of his health. His boyhood days were spent on a plantation in the Old Dominion state. He obtained his education in a printing office, and attained so high a rank in his chosen profession that he became one of the best known editors and printers in Virginia. His career attracted public attention, and, on the 29th of June, 1854, at the age of 30, he was appointed by President Pierce, secretary of Kansas territory at a salary of \$2,000 per annum. At different times during his term as secretary, Mr. Woodson had devolved upon him the powers of governor. The first brief term was from April 17 to June 23, 1855, during a temporary absence of Governor Reeder. The executive minutes show only two official acts during this period, the filing of election returns, and the issuing of an executive warrant on a requisition of the governor of Indiana. On the removal of Governor Reeder from office August 16, Secretary Woodson acted as governor until September 7, when Governor Shannon entered upon his duties. From June 24 to September 11, 1856, Secretary Woodson acted as Governor during the interim between the departure of





Governor Shannon and the assumption by Governor Geary of the duties of the office. It was during this period that, in July, 1856, the correspondence between Governor Woodson and Colonel Sumner and Colonel Cooke was had relative to the dispersion of the Topeka legislature and the rebellion in Topeka.

On the departure of Governor Geary from the territory, March 12, 1857, Mr. Woodson became acting governor until April 16, when he was succeeded by Frederick P. Stanton, who had been appointed secretary of the territory. As a southern man Governor Woodson's sympathies were with the south. He was faithful to the policy of the pro-slavery party in Kansas. In April, 1857, he was appointed receiver of the Delaware land office, which was at first established at the town of Doniphan, and was afterward removed to Kickapoo. For 12 years subsequently he was engaged in farming in Leavenworth county. In 1870 he removed to Montgomery county, and assisted in establishing a newspaper at the town of Parker. Subsequently he became connected with the Coffeyville "Journal." In 1882 he was appointed city clerk of Coffeyville, a position which he filled for 12 years, when he resigned on account of failing health. One of Governor Woodson's peculiarities was his aversion to having a photograph taken of himself. He could not be induced to furnish his portrait for our State Historical Society. In private life he was genial, kind, and courteous, and was highly respected by the people of Coffeyville, among whom he spent so many years of the later period of his life.

#### ROBERT JOHN WALKER.

Governor Robert J. Walker was born at Northumberland, Pa., July 23, 1801, and died in Washington, D. C., November 11, 1869. He was educated at the University of Pennsylvania and commenced the practice of law at Pittsburg in 1822. In 1826 he removed to Mississippi, and entered vigorously into the law and politics. During the South Carolina nullification agitation he took sides against Calhoun, publishing in 1833 in the Natchez "Journal" an extended argument against the doctrine of disunion, and in favor of coercion against rebellious states. In 1836 he was elected to the United States senate as a Union candidate. At the same time he influenced the Mississippi legislature to adopt resolutions denouncing nullification and secession as treason. In 1840 he was re-elected to the United States senate by a two to one majority over the famous orator, Sergeant S. Prentiss. During his service in the senate he took an active part in its debates, especially in opposition to John C. Calhoun. But he was a democrat. He supported the administrations of Andrew Jackson and Martin Van Buren. He favored the nomination and election of Polk in 1844, and by the latter was appointed secretary of the treasury, which office he held until March 5, 1849. He achieved great eminence as a national financier during his service as secretary of the treasury. Respecting slavery, he advocated gradual emancipation, and exhibited his own sincerity by manumitting in 1838 all his own slaves. He favored the annexation of Texas, and in 1837 introduced the resolution recognizing the independence of the "Lone Star State." Respecting the annexation of Texas, he favored the measure and recommended, as a condition, that a scheme of gradual emancipation should be provided for the new state.

In 1857 he became governor of Kansas Territory by appointment of President Buchanan, assuming the duties of the office on the 27th of May. He accepted the appointment upon the pledge made by the president that the state constitution to be framed should be submitted to a vote of the people. That was the



Lecompton constitution. It was not fairly so submitted to a vote of the people. On the contrary an attempt was made by the pro-slavery framers of that instrument, actively supported by the administration at Washington, to force it upon the people through forged and fraudulent election returns. Governor Walker went to Washington and opposed its ratification by Congress. He had already performed a still greater service to the people of the territory by purging the fraudulent returns of the legislative election of 1857, and, with the cooperation of Secretary F. P. Stanton, giving certificates of election to a large majority of free-state members, who were justly elected. This was the turning point in Kansas political affairs. The territory became free from the Missouri usurpation of 1855, and legal self-government by the people began.

Governor Walker resigned his office, in a lengthy letter dated December 17, 1857, addressed to Secretary Cass, and which is published in this volume. It might be said that he resigned from compulsion. No governor of Kansas Territory could remain in office and oppose the behests of the slave power which dictated the policy of the administration at Washington. In 1861 Governor Walker took active grounds in aid of the suppression of the rebellion. In April he addressed a great mass meeting in Union Square, New York, advocating prompt and vigorous measures. In 1863 he was appointed by the government financial agent of the United States in Europe, and succeeded in negotiating \$350,000,000 of 5-20 United States bonds. During his public life of nearly 40 years, Governor Walker exercised a strong and often controlling influence on public affairs.

---

#### GOVERNOR STANTON.

Frederick P. Stanton was born in Alexandria, District of Columbia, December 22, 1814, and died near Ocala, Florida, June 4, 1894. In his youth he worked with his father as a bricklayer. He received by his own exertions a classical education, graduating at Columbia College. He taught school, studied law, and was admitted to the bar, and practiced at Memphis, Tenn. He was elected as a representative to the twenty-ninth congress from Tennessee as a democrat, and was four times re-elected, serving from December 1, 1845, to March 3, 1855. In April, 1857, he was appointed to be secretary of the territory of Kansas, and arrived at Lecompton and assumed the duties of office April 15. In an address to the people of Lawrence on the 24th of April, he announced the policy which would be pursued by him and by Governor Walker. May 20 he issued a proclamation showing the census of the territory, as it had been taken under the Lecompton constitutional convention act, and containing an apportionment for delegates to the convention. October 19 he joined with Governor Walker in issuing a proclamation rejecting the fraudulent election returns under the legislative election. December 1 he issued a proclamation convening the first free-state territorial legislature in extra session. For this act he was removed from office by President Buchanan, and by this act he won the everlasting gratitude of the body of the people of the territory.

He was succeeded in office by Secretary Denver, who became acting governor December 21. January 29, 1858, he published a letter in the "National Intelligencer," at Washington, defending his official career. He continued to reside in Kansas, and became permanently identified with the republican party. He purchased a large estate of lands near Lecompton, and erected perhaps the most capacious and costly residence then in Kansas. On the organization of the state under the Lecompton constitution, Governor Stan-



ton became prominent as a candidate for election to the United States senate. In 1861, on the appointment of Senator James H. Lane as a brigadier-general in the army, and his supposed acceptance of the appointment, thus causing a vacancy, Governor Stanton was appointed United States senator for Kansas, and his credentials were presented in the senate. But, as it proved, there was no vacancy. He some time afterwards took up his residence at Farmwell, Va., where he resided for many years, practicing as an attorney before congress and the departments at Washington. September 2, 1884, Governor Stanton, by invitation, attended the Kansas old settlers' meeting at Bismarck Grove, Lawrence, and delivered a lengthy address on Kansas. The address is contained in the fourth volume of these Historical Society collections. About 1886, Governor Stanton settled in Florida, where he continued to reside until his death, in 1894.

#### GOVERNOR DENVER.

James W. Denver was born in Winchester, Va., in 1818, and died in Washington, D. C., August 9, 1892. He received a public-school education, emigrated in childhood with his parents to Ohio, and removed to Missouri in 1841, where he studied law, and was admitted to the bar. He was appointed captain of the Twelfth Infantry in March, 1847, and served in the war with Mexico till its close, in July, 1848. Removing to California in 1850, he was appointed a member of a relief committee to protect immigrants, and was chosen a state senator in 1852. While a member of this body, in 1852, he had a controversy with Edward Gilbert, ex-member of congress, in regard to some legislation, which resulted in a challenge from Gilbert that was accepted by Denver. Rifles were the weapons, and Gilbert was killed by the second shot. In 1853 Mr. Denver was appointed secretary of state of California, and from 1855 to 1857 served in congress. He was appointed by President Buchanan commissioner of Indian affairs. While in Kansas, in December, 1857, on Indian business, he was appointed secretary of the territory, to succeed Secretary and Acting Governor Stanton, who had been removed from office. Secretary Denver took the oath of office on the 21st of December, and, as secretary of the territory, in the absence of the governor, he continued to act as governor until the 12th of May, 1858, when, having been appointed to the office of governor, he took the oath of office as such. He continued in office until he resigned, issuing a parting address to the people of Kansas, dated November 9. His administration was more satisfactory to the authorities at Washington than to the body of the people of Kansas. On his return to Washington he was reappointed commissioner of Indian affairs, which office he held until March, 1859.

In 1861 he entered the union army, was made brigadier-general, served in the western states, a part of the time in Kansas, and resigned in March, 1863. Afterward he settled in Washington, D. C., to practice his profession as an attorney. September 3, 1884, Governor Denver attended the old settlers' meeting at Bismarck Grove, Lawrence, and delivered an address, which is published in volume III of the Historical Society's collections, page 359. John W. Forney, in his "Anecdotes of Public Men," says: "General Denver, while in congress, as chairman of the committee on the Pacific railroad, in 1854-5, presented in a conclusive manner the facts demonstrating the practicability of that great enterprise and the advantages to be derived from it."



## SECRETARY AND ACTING GOVERNOR WALSH.

Hugh Slight Walsh was born in New Winsor, Orange county, New York, about the year 1810, and died April 23, 1877. He came to Kansas from Alabama, in April, 1857. He became private secretary for Acting Governors Stanton and Denver, and in 1858 was appointed secretary of the territory, taking the oath of office on the 12th of May. On the resignation of Governor Denver, in October of that year, Secretary Walsh became acting governor, and served as such until December 17, when Governor Medary assumed the duties of the office. In his administration he conformed to the pro-slavery policy of President Buchanan. He was particularly active in denouncing and seeking to suppress James Montgomery and his free-state associates for so-called marauding expeditions in southern Kansas. On his retirement from office, Governor Walsh took up his residence near Grantville, in Jefferson county, where he continued to reside on a farm with his son, De Witt Walsh, until his death. He continued to be somewhat prominent in state politics, as a democrat. He had pronounced opinions on all subjects, and was ready to speak of and defend them; but he never did so in an offensive manner, and always retained the friendship even of his political opponents.

## GOVERNOR MEDARY.

Samuel Medary was born in Montgomery Square, Montgomery county, Pennsylvania, February 25, 1801, and died in Columbus, Ohio, November 7, 1864. The family name was originally spelled Madeira, and is still so pronounced. He was reared in the Quaker faith, his mother's ancestors having emigrated to this country with William Penn. He was educated at Norristown Academy, and at 16 years of age became a contributor to the "Norristown Herald," both in prose and poetry. He then taught, and continued his studies in the higher branches. In 1820 his family went to Montgomery county, Maryland, and two or three years later to Georgetown, D. C. In 1825 he went to Ohio, and settled in Batavia, Clermont county. In 1828 he established the "Ohio Sun," to advocate the claims of General Jackson for the presidency. He was elected as a Jackson man to the state house of representatives in 1834, was then sent to the senate, and, after serving two years, removed to Columbus and purchased the "Western Hemisphere," which was afterwards changed to the "Ohio Statesman," and which he edited almost continuously till 1857. This paper soon became a power, not only in Ohio but in all the Northwest and the South. He supported Jackson in his contests with the United States Bank, and advocated his views on the tariff with ability, and enjoyed the confidence and warm personal esteem of the President.

The cry of "Fifty-four forty, or fight," relative to the Oregon boundary question, is said to have been originated by him, and he became the warm friend of Stephen A. Douglas from his support of that measure. In 1844 he was chairman of the Ohio delegation to the Baltimore convention. Jackson had written a letter to Mr. Medary asking him, in the event of discord, to present the name of James K. Polk for the presidency. In the midst of wild excitement, Medary produced this letter, with the result that Polk was nominated by acclamation. Mr. Medary declined the office of United States minister to Chili in 1853. In 1856 he was temporary chairman of the Cincinnati convention that nominated James Buchanan, and strongly advocated the nomination of his friend Douglas. He was the last territorial governor of





Minnesota, in 1857-'58, and of Kansas in 1859-'60. In December, 1860, he resigned, and returned to Columbus, Ohio, to establish the "Crisis," which he edited until his death. In his early days he was devoted to horticulture and agriculture, and he was one of the originators of the Ohio state fairs, being their culture, and he was one of the originators of the Ohio state fairs, being their first treasurer and for several terms president. He also actively aided Samuel F. B. Morse in promoting the electric telegraph. He was known as the "Old wheel-horse of Democracy." One of his characteristics was the ability to write while keeping up a running conversation. In 1869 a monument was erected to his memory in Columbus by the democrats of Ohio.

---

#### GEORGE M. BEEBE.

Secretary and Acting Governor Geo. M. Beebe was born at New Vernon, N. Y., October 28, 1836. He received an academic education and studied law at the law university at Albany, graduating in 1857. He took up his residence in Doniphan county, Kansas, in 1859, and in November of that year was elected as a democrat to the territorial council, by a vote of 762 over William D. Beeler, republican, who received 748 votes. He served during the session of the legislature which met at Lecompton January 2, 1860, and adjourned and held its session at Lawrence. The legislature at this session passed a bill abolishing slavery in Kansas. Mr. Beebe as a member of a committee to which the bill was referred made a minority report, as follows: "Having found that there is now invested in this territory between one-fourth and one-half million of dollars' worth of property in slaves, and believing that the immediate prohibition of an existing right of property in any given article is beyond either the legislative power of the states or territories, as contravening the letter and spirit of articles four and five of the amendments to the federal constitution, the minority recommends the indefinite postponement of the bill."

The bill passed the council by a vote of nine to four. This is the bill which was vetoed by Governor Medary and passed over the veto. May 1 following, Mr. Beebe was appointed secretary of the territory, in the place of Hugh S. Walsh, and entered upon the office July 1. December 17, 1861, Governor Medary having resigned, Secretary Beebe became acting governor. In a message to the legislature, January 10, in which he referred to the opening events of the War of the Rebellion, which were then transpiring, he advocated neutrality on the part of Kansas. He continued in office as acting governor until February 9, 1861, at which time notice of the admission of Kansas into the union was received, and Charles Robinson took the oath of office as governor of the state of Kansas. In 1863 he removed to Nevada territory. He was there appointed collector of revenue, but declined the position. He returned to Monticello, N. Y., and edited the "Republican Watchman." He was president of the democratic state conventions of New York in 1873 and 1874. He was elected to the Forty-fourth congress as a democrat, and re-elected to the Forty-fifth congress.



## GOVERNOR REEDER'S ADMINISTRATION.

[The papers relating to the administrations of Secretaries and Acting Governors Woodson, Stanton, Denver, Walsh, and Beebe, are included with the papers under the heads of the Governors under whom they served as Secretaries, and in place of whom they from time to time, by virtue of office, served as Governor.]

The following papers pertaining to Governor Reeder's administration were omitted from the third volume of collections, which contain the executive minutes of Governor Reeder's administration:

## CORRESPONDENCE.

To His Excellency, A. H. Reeder, Governor of Kansas: Dear Sir—Having been informed that you were waited on a few days since by a committee of persons, acting by authority of a meeting held at the town of Leavenworth, on the 15th inst., to urge upon you the necessity of an immediate election for members for a territorial legislature; and that a correspondence upon that subject of a nature extremely interesting to all citizens of Kansas has taken place between you and said committee, we respectfully solicit of you a copy of the same for publication. Very respectfully, yours, &c.,

J. C. THOMPSON.

ROBT. H. HIGGINS.

M. F. CONWAY.

Fort Leavenworth, K. T., November 22, 1854.

Gentlemen: Yours of to-day is received. As the correspondence to which you refer is one that had its origin in a public meeting, relates to public affairs, and was carried on with me as a public officer, I have no hesitation in furnishing the inclosed copy for publication, if you deem proper so to use it. Very respectfully yours,

A. H. REEDER.

To J. C. Thompson, Robt. H. Higgins, M. F. Conway, Esqs.

Fort Leavenworth, November 22, 1854.

---

Fort Leavenworth, K. T., November 21, 1854.

Gentlemen: On the 16th inst. you called on me in the capacity of a committee, claiming to represent and speak for a meeting of citizens of Kansas Territory, held the preceding day at Leavenworth city, and presented me your memorial on behalf of that meeting.

The memorial commences with the statement that you are acting under a resolution of such meeting, and ends by "urgently pressing" me to "comply with the wishes of those by whom you were appointed."

Finding that you did not come as individual citizens, acting for yourselves, but as the representatives of others, I took the ground that it was necessary and proper for me to know whom you represented, and that I must have a copy of the proceedings of the meeting which appointed you. Your chairman seemed at first to think that was unnecessary. I replied that it was very obviously necessary I should know, by the only authentic evidence, that you had been appointed, and by whom; and further stated, that unless the proceedings were furnished I should not consider myself bound to notice your memorial. You



then agreed to furnish them. I waited their coming until last evening, when I received from the post-office a communication from you, dated the 17th inst., but with no postmark to inform me when it was mailed. This communication declines to furnish the proceedings of the meeting—professes to give reasons for the refusal—contains a very deliberate enunciation of some inherent rights of the people of Kansas, which no one would ever think of questioning, and some other propositions which must, in a confusion of correspondence, have got into that letter by mistake, as I have been utterly unable to discover how they were connected with the subject of discussion; and again requests that my answer to your memorial be made known to you and those “whose organ you have the honor to be.”

The reasons you give may be very briefly stated: First, you say, that some of you, at least, are “recognized inhabitants” of Kansas; and asserting your own character as honorable men, you claim that I should have indorsed your own opinion on that head by taking your allegations of the facts, instead of asking for the usual and natural evidence of them; secondly, that the people of Kansas have a right to make known their wishes to the executive without putting them in writing, or organizing any meeting for that purpose. To the latter, I have only to say, that I admit cheerfully the proposition that it contains; but I am at a loss to understand what possible bearing it has upon the question whether I am entitled to have a copy of the proceedings of this meeting which has been held and an extract from which you profess to give. As to the first reason, passing over the indelicacy of gentlemen putting their personal character unnecessarily and improperly in issue, and demanding of me, who never impugned or impeached it, that I should dispense with the forms and vouchers which the occasion demanded, by adopting, in lieu thereof, any estimate of that character whatever, and especially one made by yourselves, as the basis of my official action, I beg leave to remind you that you are requiring even more than this, and, with signal modesty, demand that I should surrender my judgment to yours, and if you should be of opinion that the meeting who sent you was composed of “citizens of Kansas,” I should take for granted that you are infallible, adopt your conclusions, and consider it unnecessary to judge for myself. Doubtless this would save a vast deal of trouble; and if I could take your infallibility for granted, it would leave me little to do but to register your decrees. That, however, is not my mode of doing business; and although I seek the opinions and suggestions of others, I prefer to judge for myself.

There is another very singular aspect of this reason of yours. Without inquiring of me what I intended to do in relation to an election of members of the legislature, you attract public attention by assembling a meeting, and after a speech appropriate to the design of the meeting, a committee is formally appointed to prepare a grave and diplomatic memorial to quicken me in the performance of my official duty; and when you have made the affair thus public, precise, and ceremonious, as far as it is calculated to cast censure on my judgment and fidelity, you modestly insist that all the residue of the proceedings shall be as informal as you choose to make them, and that whilst you, by your actions, are censuring me, I shall be required in the same transaction to recognize you as men who cannot possibly err in motive or judgment. These rules of logic and equity I have never learned; and I think, gentlemen, that to you belongs the merit of their discovery.

Your reasons being thus disposed of, allow me to repeat: You come to me as the agent of others, who you allege are citizens of Kansas, and therefore entitled to a reply. I ask for a copy of the proceedings, in order that I may be satisfied



as to that fact. You peremptorily refuse to give them. By all the rules of common sense, common courtesy, and common justice, I would be justified in refusing to notice your communication, as I had once resolved to do. I have, however, changed my mind, and will proceed to state some facts within the knowledge of the whole public in this vicinity — who will decide between us, if we disagree — and which I should have proven almost entirely by your own evidence, had you not, from the pinching exigencies of the case, been compelled to refuse a copy of the proceedings.

The meeting was not of the "citizens of Kansas," as your proceedings will show, if you will produce them. It was a meeting composed mainly of citizens of Missouri, and a few of the citizens of Kansas. Your own body, whom I am now addressing, contains two undoubted residents of Missouri, one of whom is your chairman, who resides with his family in the town of Liberty, Mo., as he has done for years, and whose only attempt at a residence in Kansas consists of a card nailed to a tree, upon ground long since occupied by other settlers who have built and lived upon the claim. The president of your meeting was Maj. John Dougherty, a resident and large landholder in Clay county, Missouri, as he has stated to me since the meeting, and will not hesitate to state again, as he is a high-minded and honorable man, above all concealment or disguise. The gentlemen principally composing your meeting came from across the river, thronging the road from the ferry to the town, on horseback and in wagons, in numbers variously estimated by different persons at from 200 to 300; and after the meeting was over they returned to their homes in the state of Missouri. These are facts as notorious here as any public occurrence can be; and every man who had eyes to see and ears to hear, is cognizant them.

They were the subjects of much remark and the cause of deep dissatisfaction; and even on the ground in the meeting, and in reply to the speech of your chairman, who was chief spokesman of the occasion, this invasion of our territory was loudly complained of by some of the outnumbered citizens of Kansas, and has frequently since been made the subject of indignant complaint to me. Such is the meeting from which you derive your authority, and such the title by which you assume to interfere in the regulation of our affairs. Few men, with all the facts before them, would be hardy enough to say that the assumption is entitled to any respect. The law guarantees to us the right to manage our own affairs. It is the great, much-discussed feature of our territorial government, and one which our people highly prize — under the pledges of which the inhabitants of the territory have come and staked their future fortunes on our own soil.

The pledges of that law must be redeemed; and it were a poor and pitiless boon to have escaped from the domination of congress, if we are only to pass under the hands of another set of self-constituted rulers, foreign to our soil, and sharing none of our burdens, no matter what may be their virtues or their worth as men and citizens at home. It may be very desirable for gentlemen to live among the comforts of the states, with all the accumulated conveniences and luxuries of an old home, and make an occasional expedition into our territory, to arrange our affairs — instruct our people and public officers, and control our government; but it does not suit us, and I much mistake the people of this territory if they submit to it. One thing I am certain of, that having sworn to perform the duties of the office of governor with fidelity, I shall denounce and resist it in friend or foe, and without regard to the locality, the party, the faction, or the "ism" from which it comes.

; This much the citizens of Kansas have a right to demand at my hands, and to fail in it would be the baldest dereliction of official duty. We believe that we





are competent to govern ourselves; and as we must bear the consequences of our own errors, and reap the fruit of our own decisions, we must decline any gratuitous help in making them.

We shall always be glad to see our neighbors across the river as friends and visitors among us, and will endeavor to treat them with kindness and hospitality. We shall be still more pleased, if they will abandon their present homes and dot our beautiful country with their residences, to contribute to our wealth and progress; but until they do the latter, we must respectfully, but determinedly, decline to allow them any participation in regulating our affairs.

When that is to be done, we insist that they shall stand aside and permit us to do the work ourselves.

This, gentlemen, with due respect for you personally, is the only reply I shall give to the suggestions in behalf of your meeting relative to the time and manner of taking our census and holding our election.

Your obedient servant, A. H. REEDER.

To F. Gwinner, D. A. N. Grover, Robt. C. Miller, Wm. F. Dyer, and Alfred Jones, Esqs., committee.

[*"Herald of Freedom,"* January 6, 1855.]

#### LAND PREEMPTIONS.

[Letter from Governor Reeder.]

Shawnee Mission, January 22, 1855.

B. H. Twombly, Esq.: Dear Sir—Yours of the 19th is received, making some inquiries as to the subject-matter of my letter to J. S. Emery, Esq., under date of the 28th December. That letter was written with little care, in great haste, and was only intended to state conclusions without the process of deducing them; and as it has excited more interest and attention than I at all anticipated, I gladly avail myself of the opportunity to state with more precision and fullness the opinions contained in it, and at the same time to give the reasons on which those opinions are based; and in so doing I shall necessarily answer your inquiries.

Without discussing the law of preemption generally, I shall confine myself to the question of preemption on unsurveyed lands in this territory, and shall be as brief as the subject will admit. The act of September 4, 1841, superseding the previous legislation on the subject, and the act of July 22, 1854, are the only acts of Congress necessary to an understanding of the point involved. The former provided that citizens of the United States, or declarants, being either heads of families, widows, or single men over 21 years of age, who shall make a settlement in person on public lands which have been surveyed, and to which the Indian title had been extinguished, and shall erect a dwelling-house and inhabit and improve the land, shall have a right of preemption, etc. With the disabilities arising from previous preemption, etc., we have nothing to do in this discussion. It also requires that within 30 days after settlement he shall file with the register his description and claim, and within 12 months shall make certain affidavits and enter and pay for the land, and provides that, when two or more persons shall settle on the same quarter-section, the first settler shall have the whole.

The act of July 22, 1854, provides that all the lands to which the Indian title is or shall be extinguished in the territories of Kansas and Nebraska shall be subject to the operation of the act of 1841.



This language alone, without anything more, extends the preemption system to our unsurveyed lands, for the following reasons: None of our lands at the date of this act were surveyed. One of the cardinal rules of law for the construction of statutes is, that they shall not be so construed as to make them nugatory or unmeaning; and when any proposed construction brings us to such a conclusion, it is an infallible test by which we may know that the construction is erroneous; for we are not to charge upon a legislature the folly of passing laws which have no purpose or meaning. Now, if the act of 1854 is only to apply to the surveyed lands of our territory, it is of no more effect than a blank paper; for the act of 1841, being generally applicable to all the public lands wheresoever situate, did not need the act of 1854 to extend it to this territory, and we should thus charge upon Congress that they gravely and solemnly enacted a statute which had not a particle of effect, and which only left the law as it had been before.

Again, the act of 1841 required that the land which may be preempted shall have two properties, to wit: That the Indian title shall be extinguished, and that it shall be surveyed. The act of 1854 provides that all the land to which the Indian title is extinguished shall be subject, etc., but is silent as to the survey. Here we are met by another rule of construction, conveyed in the well-known law maxim, "*Unius expressio alterius est exclusio*"—the mention of but one is an exclusion of the other. We are driven then to read this act as applicable to all the lands to which the Indian title has been extinguished, whether surveyed or unsurveyed. This will satisfy every rule of construction, and arrive at the obvious meaning and purpose of the law.

But to preclude all doubt, the act has this proviso, "that where unsurveyed lands are claimed by preemption, notice of the specific tract claimed shall be filed within three months after survey made in the field," thus clearly recognizing the construction I have contended for, legalizing a settlement before survey, and requiring the filing of a claim and description after survey. Here, then, we have one point established—that a man may commence his preemption on unsurveyed lands.

Let us follow up the argument. Preemption may be correctly defined to be, the right of purchasing before others. Under the law applicable to this territory, it is a right not resulting from a single act of the government or the settler, but gradually maturing through successive steps or stages, to wit: Personal settlement, erecting a dwelling-house, inhabiting the land, official survey, filing claim and description, making and filing the necessary affidavits, entry in the register's office, payment of the purchase-money, which, under the act of 1854, must be before the first day of sale, and granting the patent. Some of these are to be done by the settler, and others by the government. The government has covenanted and agreed, through the solemn medium of an act of congress, that they will perform their portion of them if the settler will perform his; and if the latter does so perform the acts prescribed by the law to him, the officers of the government had no choice but to complete the title to him. No man can step in between the preemptor and his final right to a patent.

His right before the granting of the patent is what is called an inchoate title—a term familiar to every lawyer. It is a title commenced but not completed, and may be assimilated to the case of a purchaser who has taken possession under articles of agreement, has paid a part of his purchase-money, and is waiting for the day to pay the balance and take his deed. The patent, though conclusive evidence of the consummation of title, is not the only medium by which the settler's rights accrue. The entry and the patent would both be illegal if



made in the absence of the preceding steps; for a register cannot allow an entry, nor a receiver take the purchase-money and deliver the patent, without the prerequisites which give these acts of his validity and force. Each of these preceding steps contributes its share to make up the title. They are all ingredients going to make up the whole. The rights which were vested in the preemptor before his last act of payment were contingent and defeasible, it is true, by his own delinquency; but the patent, when obtained, proves that the title has fully matured, and that he has been in possession from the beginning, not as an intruder, but by right. As each step or stage in the acquisition contributes its share to that acquisition, neither one alone can claim that the title was acquired at the moment of its performance; the final consummation gives a retrospective sanction to the whole, and relates back to its first inception. Indeed, this principle is so familiar that, had I been writing only for those learned in the law, I should not have entered into this elementary analysis of it.

Here, then, we have two more points established: that a preemptor who complies with the requirements of the acts of congress cannot be prevented from obtaining his title; and that, when finally consummated, it relates back to its original inception.

If so, he is to be considered and treated as having been the owner of the land from that time, and of course may then sue and recover for any trespasses committed at any time after his first personal settlement, and will take as his own, without compensation, any houses or other improvements which intruders may have placed on his land.

This should teach intruders, on the one hand, the folly of throwing away their labor, and making themselves subject to suits; and, on the other hand, should teach rightful and original preemptors the folly of going out with axes and revolvers to cut down their own houses and drive off men who are kind enough to improve their land. Better far assist them in the task, and encourage them to build another.

Even should the intruder be strong enough to drive off the rightful original settler, the latter may repose upon the law. He will not lose his land except by his own neglect. The law declares that it shall go to the first settler; and it will never allow an intruder, first, by force to prevent him from complying with the act; and afterward to claim the land because he did not comply. The law does no such unjust and foolish thing as this. It says most determinedly that "no man shall take advantage of his own wrong;" and if the first settler will only be careful to do everything which the law requires of him, except that which the intruder prevents him from doing, and preserves the proof of all the facts, he will get the land at last, with all the intruder's improvements upon it.

With another remark or two I shall close this opinion, already much longer than I expected. Some persons strangely discover a conflict between these opinions and the letter of Chief Justice Lecompte. This is a misapprehension. I contend that when a preemptor's title is consummated he can sue and recover. The judge, in a very brief and probably hasty letter, holds that at present he cannot issue an injunction for him in order to stop the cutting of timber. I can see no conflict in this, for I am satisfied his decision was correct; and had I been in his place, I should have decided in this same way. No man would, with more pleasure than myself, accord to his opinions the deference which his sound legal knowledge, his careful accuracy and conscientious uprightness have a right to demand; and I am therefore the more pleased that in this case it is so transparently obvious that no conflict of opinion exists between our letters. He was



writing with his whole attention directed to the kind of right necessary to found a present injunction.

Hoping that this communication may convince our settlers that they may confidently intrust the redress of all their grievances to the law, I remain,

Very respectfully yours,

A. H. REEDER.

[*"Herald of Freedom,"* February 10, 1855.]

#### GOVERNOR REEDER AT HOME.

We have before us, says the Washington *"Union,"* an extra of the Easton (Pa.) *"Argus,"* which gives a full and highly interesting account of Governor Reeder's recent visit to his former residence in that town. Governor Reeder arrived at Easton on Monday last, in the morning train of cars from New York, and was met at the depot by a large body of his fellow citizens, without distinction of party, who received him with hearty cheers and hearty congratulations. He was escorted to the court-house, where he was welcomed by Hon. James M. Porter, formerly secretary of war, in a brief but exceedingly felicitous speech. Judge Porter said, in conclusion: "We welcome you among us. You retain our undiminished confidence and regard, and we pray that a benign providence may preserve you in health and strength for a long life of usefulness to your country and your friends."

Governor Reeder, with much feeling and impressive eloquence, returned his thanks to the assembly for the flattering demonstration of welcome with which he had been greeted on his return to the home of his nativity, the bosom of his family, and the society of long-loved and valued friends, after an absence on the very outer frontiers of our immense republic, amid scenes somewhat trying and embarrassing. By permission of the eloquent gentleman who had been their organ upon this occasion, he addressed them directly, as he preferred to do. It was more consonant with his feelings to speak without any medium of communication directly to the sea of manly and familiar faces, covering warm and honest hearts of old and valued friends.

He alluded to the address of their speaker, which called him out upon the subject of his official action as the governor of Kansas, and the state of circumstances which there surrounded him, and after thanking them for the approbation they had expressed of his official action, and the high pleasure which such approval must necessarily confer, he said he was reluctantly compelled to admit the truth of the facts relating to the recent election. Indeed, it would be in vain to attempt to disguise or conceal them, humiliating as they were. He should have been surprised to find them so well acquainted with the true state of the facts and so keenly alive to the oppressive injustice that had been committed, if he had not already ascertained that this knowledge had preceded him all along the route he had traveled. He had found along his whole route the same familiarity with the facts, and the same state of indignant excitement. It seemed as though some electric medium had diffused over the country the full knowledge of the circumstances, and that but one sentiment pervaded all parties, sects and factions in the country through which he had passed, impelling them to the strongest denunciation of the recent outrage upon popular sovereignty and the purity of the ballot-box. It was, indeed, too true that Kansas had been invaded, conquered, subjugated, by an armed force from beyond her borders, led on by a fanatic spirit, trampling under foot the Kansas bill and the right of suffrage. He reminded his hearers of the fact that he had been, as they well knew, an





early and consistent friend and advocate of the principles of that bill; he believed in it then, and his opinion was still unchanged.

The people of Kansas would ask nothing but that the principles of that bill should be carried out, and that the rights for which they had the sacred and solemn pledge of the nation should be secured to them. That this bill had been repudiated, those pledges, under which they had gone forth to establish another republic, had been forfeited, it was impossible to deny. He said none knew better than those whom he now addressed how constantly and consistently he had contended for all the constitutional and legal rights which had been guaranteed to every section of the union, and how sternly he had warred against the fanaticism that would violate them. He was ready to oppose the fanaticism that was reckless of the rights of others, come from what quarter it would, and all he asked for the infant and feeble community over which he presided, that their ballot-boxes should be respected and their rights held sacred. With the decisions they should then make he would rest satisfied. But when they were overborne by numbers and preparations beyond their power to resist, they must appeal to the spirit of freedom and the sense of justice among their fellow citizens of the states to redress their wrongs by the moral force of a unanimous and determined tone of public opinion that would frown down the wrong and vindicate the right, acting in legitimate and efficient channels.

To every right-thinking man a constitutional, a legal or a moral right was equally sacred, whether claimed by the North or the South, East or West, by a territory or a state, by an enemy or a friend. That the same feeling which had induced him to stand up, oft and again, for the constitutional rights of the South, impelled him now to claim, with equal pertinacity, the right of suffrage for the people of Kansas. He could not hold the South responsible for the invasion which had been referred to; nor could he, with propriety, visit the responsibility on the state of Missouri. Its authors were the fanatic leaders and corrupt and reckless presses of some half dozen border counties, who had inflamed, excited and deceived their own people, and had then urged this misguided and deluded people to the commission of the wrong. It was due from Missouri, however, to disavow and repudiate it, and to take measures to prevent its recurrence. Failing in this, she might fairly be held to sanction it. If she should thus sanction it, we must appeal to the honor, the justice and the magnanimity of the southern states to stay the outrage thus committed by one of themselves, in the mistaken expectation of advancing their common cause. That rebuke and disapprobation from them would be all-powerful cannot be doubted, and if this reliance should fail, it will be for the rest of the union to say whether the plighted faith of the nation to us shall be kept or broken; whether the right of suffrage shall be a reality or a mockery; whether we, their fellow citizens, shall be freemen or slaves.

The governor closed by again referring to the old and cherished relations he had sustained with those around him, and with the expression of his gratification and his thanks for the honor conferred and the regard manifested by this enthusiastic popular demonstration.

The above report of Governor Reeder's speech, which we copy from the "Argus," is introduced with the following editorial remarks: "A number of errors having crept into the report of Judge Porter's speech on the occasion of Governor Reeder's reception here, as published in the 'Argus,' and the inaccuracies in the telegraphic reports of the governor's reply, made up from the memory of some one in the crowd, induced us to call upon the governor for a more correct report, with a view to republishing the remarks of both gentlemen correctly."



Governor Reeder declined writing out his remarks, but repeated them to us, and we made at the moment the following notes, which we are satisfied is a sufficiently close report of the substance of his original speech."

[ "Herald of Freedom," June 2, 1855. ]

#### GOVERNOR REEDER IN PENNSYLVANIA.

At a reception on arriving at his former home in Pennsylvania, in December, 1855, Governor Reeder made the following address:

Among the true, the tried and the trusted friends who now surround me, I shall always feel gratified and at home, let my lot be cast where it will; and although such a demonstration of welcome would call for my sincere thanks among any people and under any circumstances, I assure you it has for me a double charm, when emanating from men who have known me from childhood, socially, politically, and professionally; and in whose good faith, sound judgment and honest impulses, I have always relied, and never relied in vain. With no empty words do I thank you for the honor conferred by this cordial and flattering reception. I thank you personally for the implication it conveys that my course in Kansas has met your approbation, and, in the name of the true, the honest, the oppressed and the slandered people of that lovely country, I thank you for the assurance it will bear to them, that amid all the wrongs they have suffered, they have friends who watch the interesting and memorable events that are making their history; and that whilst they are struggling for their simplest but their dearest rights, among the broken pledges of a nation, they have a sympathy here which still holds out the hope that those pledges may yet be redeemed. To the thanks I tender you in their behalf I know they will respond. Many an anxious and manly face on the far-off plains of that beautiful and eventful country will beam with pleasure on reading the account of this reception, and many a heart will swell with renewed encouragement in the work that is before them, whilst thousands will indorse all of the thanks and gratitude which in their name I tender to you to-day. Encouragement from the homes they have left and sympathy and support from their brethren of the states is pleasant to their ears and cheering to their hearts, and although they will not, when deprived of it, falter at all in the duty they owe to themselves and their country, the assurance of justice and support from their friends at home will strengthen and encourage them.

It needs no effort of imagination on my part to conjure up a realization of the effect of such sympathy and support upon the hearts of the honest pioneers of Kansas. Too often have I witnessed among them the eager anxiety for expressions of public opinion—the kindling pleasure at its favorable manifestations and the disappointment which followed injustice or neglect—to draw upon any other source than memory for the effect of public demonstrations such as these.

Six months ago I spoke to you on this old and familiar ground, and recounted to you, as truth and candor required, the wrongs which had been committed upon the constitution and the doctrine of self-government. I told you then, that our people, though few and weak, were firm and strong in their reliance on the justice of the nation and the power of an enlightened public opinion. I said to you that, although compelled to wait for a propitious time and the exhaustion of peaceful remedies, they would never sit down in permanent submission to the yoke that had been set upon their necks, nor tamely bear the



shackles of white slavery which galled their limbs. And sooner even than I looked for have our prospects brightened and our hopes increased. In spite of intolerance and proscription and slander; in spite of pertinacious tyranny, regarding no right too sacred to invade and no Draconian code too fierce to impose; in spite of the most insolent attempts to perpetuate an ill-gotten power, and the most elaborate contrivances to secure it; in spite of the complicity of a chief magistrate who has proved faithless to his high trust, and encouraged the wrong by his official acts of commission and of omission, and justified it by authority of articles in his official organ, and who has allowed enemies to use and abuse, for their nefarious ends, nine-tenths of his political patronage in the territory—in spite of all these, I say, we begin to see what looks like the dawn of a brighter day for Kansas.

In place of a chaotic mass of scattered men, each struggling, among the hardships and privations of a frontier life, to provide food and shelter for themselves and their families, and not knowing friends from enemies, with no facilities for communication—individuals and whole neighborhoods strangers to each other, without organization or concerted action—they have become now an organized and efficient party, conducting their primary elections, having committees and subcommittees throughout the territory. They have met in regular convention of delegates, with every district represented, have adopted a platform of principles which, in its conservatism and liberality, puts to shame the intolerance of our opponents, and gives the lie direct to the unmeaning cry of abolitionism, with which it is sought to brand every man who will not proclaim that negro slavery is a blessing in itself, and that white slavery in Kansas should be tolerated without a murmur. They have for the first time had an opportunity to know their strength, and are cheered with the conviction that their numerical superiority is as three to one, and that they have outnumbered all the votes of their opponents, including even the non-residents. They have seen, as the mists of slander and misrepresentation cleared away, large numbers of late misguided and deceived opponents flocking to their standards and rallying under their flag. They have openly repudiated the vile code of a foreign-elected legislature, and, by the moral power of their position, they have seen its whole machinery made impotent and stationary, its magistrates disregarded and ashamed of their function, its court silent and empty, its officers idle, its taxes uncollected, even from its own political friends, and its unconstitutional penalties a scoff and a byword. They have seen men who in March last came into our territory as part of the force that invaded our polls recently become residents, and join the ranks of the free-state party, and, having held an election with all the forms and all the correctness that would do credit to any community, they have elected 52 delegates, of character and intelligence, representing every district, who are now engaged in the formation of a state constitution, to be submitted to Congress.

They have seen former opponents, subdued and convinced by the contrasts between the enormities of the legislature on one hand and the liberality of the free-state platform on the other, carry their slaves to the states, and returning with the proceeds in their pockets, take a firm and open stand with the friends of self-government and free institutions, and under the same influences they have seen struggling minorities in certain districts change into overwhelming and triumphant majorities. All this has been the glorious work of the last six months, and it has filled the hearts of our friends with hope and confidence. Nor is this all. The sober second thought of the people in the border counties of Missouri is



taking the right direction; a conviction of the wrong inflicted upon us, and a repugnance to its repetition, is steadily gaining ground among them. It becomes evident that these invasions of our polls produce no prominent effect, except in their recoil upon the men who make them, and they become weaker at each repetition. At the election for county-seat of Leavenworth county the bitter chalice came back to the lips of those who filled it, and men who had formerly gone into Missouri and solicited votes for the legislature were found loudly complaining of the foreign vote which secured a majority for a rival town. I have spoken to you in general terms of the acts and conduct of the legislature, and it may be well to refer to them more in detail:

First, as to its organization. Certain censorious gentlemen, who sit quietly at home and philosophize the matter in their own way, undertake to find fault with me for granting any certificates of election at all. Without stopping to inquire whether these gentlemen would not have granted them all, had they been in my situation, I will only say that such a charge betrays ignorance of the facts of the case. Each district and precinct must of course stand on its own merits, and it would have been ridiculous to set aside all of them because illegal votes had been polled in the same.

It would have been equally ridiculous to set aside a district in which I do not know that illegal votes had been polled. These gentlemen take the absurd position that my action *then* should be judged by the knowledge we have now. I had provided for the voters of the territory the opportunity, the mode and the time to complain of illegal votes, and the right to a full hearing, and in none of the districts in which certificates were granted, was there a protest filed as directed by the proclamation, nor was I, at the time, made acquainted with facts to justify a refusal. Seven electoral districts were set aside, all for disregard of the forms prescribed by the proclamation, and these comprised all and more than all of the cases in which complaints had been filed. New elections were then ordered, and upon them certificates were granted, which the legislature at their meeting disregarded, and although by the organic act the certificate of the executive is made the evidence of due election by legal votes, and no power is given to the legislature to judge of the qualifications of members, a number of members who had such certificates were ejected, and their places filled by men who had no title to seats whatever.

Of the removal to an unauthorized place I need not speak, as it involves a legal question and has been already before the public, in the papers which it evoked from the judiciary and the executive.

By their so-called slavery act they have provided, that if any person shall speak, write or circulate, anything calculated to produce a disorderly disaffection among the slaves he shall suffer five years' solitary imprisonment at hard labor, and as the jury are the judges of what is so calculated, and only men of one political opinion are admitted to the jury-box, it will be seen that the way of a free-state man to the penitentiary will be very easy. The twelfth section of the same act imposes upon any man who will express the opinion that slavery does not legally exist in the territory imprisonment at hard labor for two years.

True, the constitution forbids, even to Congress, the power of passing any law abridging the freedom of speech or the press, but this legislature, in the self-complacency of their omnipotence, rise superior to Congress, and stop at no such small obstacles as the constitution, or an organic act, and boldly enacted the penalties of the penitentiary for the man who would dare to read or introduce into the territory the debates of the United State senate or the speeches of the





greatest statesmen of the nation. The thirteenth section closes the jury-box against every man who does not believe that slavery exists in the territory.

The preemption laws of the United States are repealed, and although, by their provisions, a settler is allowed but 160 acres, this legislature, paying no attention to the expressed prohibition in the organic act, extends his claim to 320.

The members of the bar, too, come in for their share of attention, and no man is allowed to be admitted unless he takes the oath to support all the enactments of the legislature.

The organic act forbids them to confer the right of suffrage on any other than citizens of the United States and declarants, and yet the legislature in their election law provide that all Indians "who conform to the custom of the white man" shall be considered citizens, and shall be allowed to vote.

Thus, they not only violate the organic act and usurp the power of naturalization, confided by the constitution to Congress alone, but they make the election officers the judges of who has "conformed to the custom of the white man," and that custom must be conferred to, and thus enable them to admit or reject whom they please.

Avowing in the legislative halls the determination to allow the people to elect none of their officers, they appoint for each of the counties a probate judge, a sheriff, and county commissioner, and for each district prosecuting attorneys—many of these officers residing in the state of Missouri when appointed—and to hold their offices until October 1, 1857, that being the time when the next election takes place for a legislative council, and when the ill-gotten power must be renewed by another invasion. They declare in their election law that every man who offers to vote shall be presumed to be qualified, and thus, if the vote of a non-resident is objected to, the challenger must prove the negative or the vote is received.

No residence previous to election is required. When challenged, the judges may swear the voter first—and then it is provided that no evidence whatever shall be heard to contradict—or they may hear other evidence in preference to the voter, thus enabling them to make one rule for one man and a different one for another. A voter, to be qualified, must swear to support the fugitive-slave law of 1793, the fugitive-slave law of 1850, and the Kansas bill, thus making a man's vote to depend, to some extent, on his political opinions, and he must pay to the sheriff, appointed by the legislature, a poll tax of \$1. This latter requisition, however, was removed, when it was ascertained that the free-state men would not vote at their polls.

To this election our people could not—would not—go. They were unwilling to go through the mockery of an election where they were to be disfranchised by foreign voters, and drunken Indians who conformed to the "custom" of drinking bad whisky; where one rule could be made for them and another for their opponents; where they must recognize a foreign-elected legislature and pay taxes into the hands of a nonresident sheriff or the expenses of their invaders, and where those in favor of, as well as those opposed to, the laws invidiously pointed out must accept as a boon, on condition of political opinion, that privilege of suffrage which was theirs of right. These contrivances and restrictions they well knew were intended to cripple and smother their numerical strength, and that no effort would be spared to enforce them in the most odious way.

In strong and beautiful contrast to this intolerant and unjust legislation is the platform of the free-state party: a set of principles to which any rational man may freely subscribe, and which, as I have already said, fully vindicates them



from all the slander that has been heaped upon them. They assert the right of self-government and free suffrage, for the actual residents of Kansas, and against all interference by non-residents from any quarter.

They assert, as they have the right to do, their preference for the free labor over slave labor, and their determination to make their future state a free one; they assert the doctrine of state rights, and denounce all interference by citizens of Kansas with the slave property of Missouri or any other state. They recognize the constitutional rights of the slave states to mold their own institutions in their own way, and to hold and recover their own slaves without any molestation. They contain a provision for exclusion of all free blacks, so desirable and acceptable to contiguous slave states, as diminishing the chance of harboring fugitives. They assert the intention of the party in the adoption of a state constitution to guard the owners of the slaves in the territory against injustice and loss, by a reasonable provision for their benefit, and therefore, by necessary implication, avow the intention to leave the slaves unmolested in the territory, in the meantime, whether they are rightfully held there or not. They finally repudiate with indignation the charge of abolitionism as slanderous and false, intended to bring odium on a pure and formidable cause and frighten away weak and timid men, and well known by its authors to be untrue. And yet there are men and presses so purblind and malicious as to attempt to brand such an organization as one politically unsound, encroaching upon the rights of others, and of which a national democrat or a national whig should be ashamed.

Of these cavilers it is only necessary to say, that their only arguments consist in the use of epithets, the meaning of which they possibly cannot understand, or by which they hope to deceive the ignorant; and that, if not satisfied with the doctrines of our platform, they must, to preserve their own consistency, advocate the introduction of negro slavery into the states where they reside. In the direction they desire to go, there is but one step to take beyond our position, and that is the advocacy of negro slavery for themselves and us, as a blessing in itself, and the entire surrender of the right of self-government. They may advocate these doctrines, if they please, but they can neither commend them to me as desirable, nor make any sensible man regard them as a test of national political orthodoxy.

Strange as it may seem, however, I find in the presidential official organ of October some of these assertions and innuendoes calculated and intended to pervert and mislead and which in justice to my associates and myself, I cannot allow to pass unnoticed.

I am gratified at the fact that one of its editors was absent from Washington at the time of the publication, and as to its authorship, all who know the character and habits of the chief magistrate and the close supervision which he gives to his official organ will believe with me that the article was either written or supervised by himself. Among many other things which it might be pleasant and profitable to notice, if time admitted, the organ says:

"Notwithstanding the present associations of Governor Reeder, we are not disposed to credit the charge that he was unsound when appointed. We believe he was a national man then, whatever he may have become now."

The first thing that strikes me, although it creates no surprise, is the cowardice of the innuendo, which carefully avoids any distinct averment or specification, and leaves every hole open for escape. In whatever sense it may be understood, however, as charging any act or declaration, or the entertaining of any sentiment at war with my former well-known political opinions, I pronounce it untrue, and defy the proof. No such proof has been or can be produced. But let us retro-



spect a little to understand the point. In order to conciliate the men who repudiated and trampled upon the Kansas bill, by the invasion of our polls, the President made vacant an office which had been conferred without solicitation, and which I could surrender without regret.

The reasons alleged were of a character to impugn my private reputation. On the far-off western frontier, I remain quiet under this state of things, making no appeal or reply. And yet, almost the whole country, as one man, including a portion of the northern democratic press, and numberless political meetings of our own party, beside both the free-state and pro-slavery parties in Kansas, have pronounced the alleged reason a pretext and a subterfuge. How then stands the case? The President of the United States, charged with sacred trusts and heavy responsibilities, who has the keeping of his country's character as well as his own, who must be base if he is not the very impersonation of high honor, pure integrity, good faith, and elevated sentiment, stands convicted before the country, by the verdict of his political friends, of subterfuge, hypocrisy, and deceit, and by the same process I am vindicated, and all necessity of a defense is superseded. Here allow me to make a slight digression for the expression of feelings which I cannot and ought not to suppress. Among all the instances of support and vindication, none conveyed to me so much pleasure as that which came from my native home—from the old time-honored tenth legion of Pennsylvania democracy. Here, in a district which has often saved the party in the state from defeat, which rolls up democratic majorities that no congressional district in the state can equal, it was pleasant to know that I was vindicated, even at the expense of denouncing the President they had aided to elect; that although an election was approaching, and the party was marshaling and arraying its forces for the contest, not one of the five noble counties of the legion could be brought to pass the usual complimentary resolution to the administration, which never before had been omitted, whilst some of them substituted strong denunciation, and all of them vindicated and sustained me. To the sturdy and fearless people who did this, whom no official influence can intimidate, or expected favors lure from the pursuit of truth and justice, who are never found

"To crook the pregnant hinges of the knee,  
That thrift may follow fawning,"

I return my grateful thanks. I should be heartless indeed, did I not seize upon this first opportunity to express the gratitude I feel for this and similar demonstrations, from the press as well as the people.

But to return: the chief magistrate, failing lessons, and perhaps stung by the probing of his motives and the defiance of his power which his act had provoked, follows it up by a fresh attack upon me, who had up to that time remained silent, and in angry retaliation extends it to those who had sustained me.

In reply to this, it is obvious that if my course has been a departure from the doctrines I have always professed, then is the great mass of the democratic party of Pennsylvania, and a large portion of the Pennsylvania democratic press, as far wrong as myself, and the old tenth legion, the sheet-anchor of the cause, which was considered by General Pierce worthy of especial ambassador from New Hampshire, in the campaign of 1852, is orthodox no longer, and all are deliberately read out of the party by the President, together with myself.

My "present associations" seem distasteful to the President, and are



succered at through his organ. If by this is meant the free-state party of the territory of Kansas, I can only say of the active men of that party, that personally, morally and mentally worse men can be found in higher places. Politically, men must be judged by the principles they profess; and for their creed, which I have read you to-day, reported by Col. J. H. Lane, late member of congress from Indiana, an associate and supporter of the administration in carrying the Kansas bill, I am willing to be responsible.

It contains, as I have shown, the doctrine of state rights, the principle of the fugitive slave law, the principle of the Kansas bill, the right of self-government, and the compact of the constitution. When President Pierce shall be allowed to read all these out of the party, I am quite willing to be read out with them. Principles are truths—eternal, everlasting truths—the same yesterday, to-day, and forever; and political creeds, in my opinion, are made for something more earnest and serious than to delude the masses and be set up for outside exhibition.

They should be the subject of belief and the rule of action—not to be discarded or perverted at the call of expediency. My own are unchanged now, and will always remain unchanged, until my reason is convicted of their error. Intimidation, cajolment or pique can never drive me from them.

There is an evident effort, however, by those who profess to be par excellence the friends of the President (and the article I have referred to, is a part of the same policy) to treat the northern democrats who prefer to make Kansas a free state as apostates to their principles and their party. If this is to be the policy let it be boldly avowed, and not concealed in cowardly, skulking innuendoes, and unexplained epithets of "free-soiler" and "abolitionist," and it will be as boldly met by the thousands whom it will strike.

The best and truest men of the party in Pennsylvania, at least, will repel it with scorn and indignation, as calculated to give force and effect to the charge so often made by its enemies and so often denied, that the democracy are engaged, not only in securing to the slave states the rights guaranteed by the constitution, but also in active efforts to propagate and extend the institution, as a matter of gratuitous favor, and from a love of its results or a wish to acquire and retain political power for themselves.

Let those who secretly cherish this latter idea go on, if they will and can, until they have made it the dominant, pervading rule of action, whether incorporated into our written creed or not, and they will do by internal corruption and decay what the external enemies of that time-honored party have never been able to accomplish.

The man who religiously and manfully contends for the constitutional rights of the South, and outside of them, upon neutral ground, prefers free labor to negro slavery, is no apostate, no free-soiler, no abolitionist—and a sad day will it be for the true and conservative men of the South and the union when they become so.

A word as to the position of the free-state party of Kansas and I am done. I have said to you that they could not attend the so-called election on the 1st day of October. They held their election on the second Tuesday, by virtue of a proclamation issued and signed by from 1,000 to 2,000 of the actual voters of the territory, and sanctioned by as many more at the polls; they declare that it was contemplated by Congress that the territory should be always represented, and they provided in the organic act the machinery of the first election, and a direction to the legislature to make the same provision for all subsequent ones, and that thus they supposed they had covered the whole ground.





But that a contingency had occurred which was not foreseen—that our polls had been invaded, our people disfranchised, and prevented from electing a legislature and making an election law for themselves, and that they were thus compelled to the alternative, whether an acknowledged and admitted right of representation should perish for want of the mere machinery of an election, or whether it had vitality enough to originate its own forms of manifestation. They take the obviously proper view of the case, and resort to the source of all political power (the people) for supplying the forms, and having polled a large majority of all the legal votes of the territory, they instruct me to ask for the seat.

They have elected delegates who are now engaged in the formation of a state constitution, which will, if ratified, be submitted to the present session of Congress. They will ask that they be admitted into the union as a state, and thus allowed the exercise of full and unrestricted popular sovereignty, with their own executive and their judiciary; or, if Congress will still insist upon retaining the larger share of the government, they will claim that Congress shall also discharge the relative duty of protection, and secure to the territory the qualified right of self-government, which is pledged in the Kansas-Nebraska bill. They are eminently willing to abide by the will of the majority when ascertained, let the result be what it will.

They ask for admission as a state, believing that it will end all their difficulties, and secure the peace of the nation and the preservation of the union. If that cannot be had, they ask for the right of suffrage—not as a mockery of it, but the actual right of suffrage, secured and certain. If these are all refused; if Congress will violate the pledges of the nation in which our people have confided; if the declaration of independence and the constitution of the United States no longer protect our soil, there is still a resource left, which has been well considered—which will be better matured and adopted, but of which it is better not now to speak.

[“Herald of Freedom,” December 15, 1855.]

#### LEGISLATURE OF 1855.—RESIGNATION OF M. F. CONWAY, ESQ.

Pawnee, K. T., June 30, 1855.

To his Excellency A. H. Reeder, Governor of Kansas: Sir—I was officially declared by your excellency, on the 6th of April last, to have been duly elected a member of the council of Kansas territory, from the sixth council district of said territory. I was also furnished with a certificate to that effect, authenticated by your signature and the impress of the public seal. I beg leave now most respectfully to resign the position thus assigned me, and to return you the certificate I then received.

I am impelled to this course by what I believe to be due to myself, to the sanctity of law, and to the rights and dignity of the people of Kansas. In holding and exercising the trust reposed in me by the qualified voters of the sixth council district, I would be required to unite with the body of men who are to assemble at this place on Monday next as the legislature of Kansas, and to engage with them in making laws to govern the people of this territory. This I cannot do without lending countenance to the authority they assume to exercise.

I was elected to represent the people of the sixth council district in the legislature of Kansas. Should I offer, in pursuance of that election, to enter this forthcoming assemblage, I would thereby give, by direct implication, my own



sanction and the sanction of those whom I should represent, to the validity of its pretensions; I would acknowledge it to be the legislature to which I had aspired, and to which the people had intended to elect me, when they cast their suffrages in my favor. This I am far from being prepared to do. It is a fact which has traveled the circuit of the whole civilized world that this legislature has been imposed upon the people of Kansas by force of arms. Those who compose it and those whom they represent, and for whom they act, are alien enemies, who have violently seized the legislative powers of this territory, and now seek to disguise their tyranny under the form of constitutional enactments. Their legislature is substantially a provincial council, instituted and ordained by a daring and unscrupulous league in the state of Missouri and other parts of the South, to govern a people whose liberties they have ruthlessly stricken down. This fact has been placed beyond controversy by authentic details of concerted operations looking to this end, and of overwhelming violence at the recent elections, unparalleled in all our political history.

The straightforward integrity exhibited by your excellency from the commencement of your official career, and the unflinching disposition to maintain the rights of the people evinced by you in setting aside, without hesitancy, the elections in all the districts where contests were made in the requisite legal form, have been such as compel me to believe that, had the evidence of the entire outrage perpetrated upon the people in the election of this legislature been put before you in the shape of legal testimony, your excellency would not have hesitated a moment in taking the same action with reference to the remaining election districts; and thus setting the authority of your office, as you have already done, your personal and private influence against this audacious usurpation.

Under these circumstances, it would be either fraudulent or pusillanimous in me to respect this as the legislature of Kansas; I am not willing to do it. Whatever the timorous or the time-serving may suggest or advise, I shall do nothing of the kind. Instead of recognizing this as the legislature of Kansas, and participating in its proceedings as such, I utterly repudiate as I reprobate it, as derogatory to the respectability of popular government, and insulting to the virtue and intelligence of the age.

As an individual citizen of Kansas, I am furthermore free to say to your excellency, representing, as you do, the imperial authority of the federal government in this land, that, while I am entirely disposed to pay all respects to the lawfully constituted authorities, I am yet not willing, whatever power may command it, to lend my neck, like a satisfied and gentle slave, to the yoke of foreign tyrants. To do so would prove me recreant to all the lessons of heroism or of duty I ever learned. I am so unfortunate as to have been trained to some crude notions of human rights—some such notions as those for which, in ages past, our foolish ancestry periled their lives, on revolutionary fields. And, however wide-spread may be the disrepute into which those puerile fallacies have fallen in these sterling and enlightened times, I am still bold to withstand their violation, in my own person, to the last extremity of just resistance. Simply as a citizen and a man, I shall, therefore, yield no submission to this alien legislature. On the contrary, I am ready to set its assumed authority at defiance; and shall be prompt to spurn and trample under my feet its insolent enactments, whenever they conflict with my rights or inclinations.

Very respectfully yours,

M. F. CONWAY.

Pawnee, K. T., June 30, 1855.

["Herald of Freedom," July 14, 1855.]



## REPORT OF THE COMMITTEE OF THE COUNCIL ON CREDENTIALS.

The committee to whom were referred the credentials of persons claiming seats in the council of the legislative assembly for the territory of Kansas, in addition to the report heretofore presented by them, beg leave to submit the following as the result of their investigations: The act of Congress providing for the organization of Kansas territory, passed on the 30th day of May, 1854, twenty-second section, provides that the legislative power and authority of said territory shall be vested in a governor and legislative assembly—the legislative assembly to consist of a council and house of representatives; the council to consist of 13 members, having the qualification of voters. The members of both branches shall reside in and be inhabitants of the district or county, or counties, for which they are elected; shall be free, white male inhabitants, above the age of 21 years; shall be actual residents of said territory, and citizens of the United States, or those who have declared their intention to become such. The same law and section also provides that the first election shall be held at such time and places, and be conducted in such manner, both as to the persons who shall superintend such elections and the returns thereof, as the governor shall appoint and direct. The persons having the highest number of legal votes shall be declared by the governor duly elected members: Provided, That in case two or more persons voted for shall have an equal number of votes, and in case a vacancy shall otherwise occur in either branch of the legislative assembly, the governor shall order a new election.

By proclamation, dated on the 8th day of March, 1855, A. H. Reeder, governor of Kansas territory, directed that an election be held in the said territory on Friday, the 30th day of March, A. D. 1855, for 13 members of the council, and 26 members of the house of representatives; defined the boundaries of the several districts, specified the places of the voting, appointed judges, and prescribed the manner of conducting said elections and the returns thereof.

In conformity with this proclamation, elections were held throughout the territory, and returns made to the governor, who chose to regard the elections held in the second and third districts for councilmen as illegal and void, and issued a second proclamation, ordering elections to be again held in those districts on the 22d day of May last, and granted to J. A. Wakefield and Jesse Wood certificates of election, by virtue and in consequence of which they now hold seats as members of this body.

Andrew McDonald, by a communication addressed to the president of the council, dated July 2d, 1855, contests the right of J. A. Wakefield to a seat in this body, because, as he says, at the election held in the second council district, on the 30th day of March, 1855, he received a majority of the legal votes cast for councilman.

• Hiram J. Strickler contests the right of Jesse Wood to a seat in this body, because, as he says, he received a majority of the legal votes cast for councilman in the third district on the 30th day of March, 1855.

Your committee, after a full examination of all the facts submitted to them in these cases, and also of the law of Congress regulating and governing elections in Kansas territory, and the usages and principles that have governed analogous cases, have come to the conclusion that the present occupants of the seats, namely J. A. Wakefield, from the second council district, and Jesse Wood, from the third council district, are not legally entitled thereto, but hold the same in violation of law, for the following reasons: From



the character of the general laws granting authority to and defining the powers of an executive, it cannot be presumed that any authority or power is bestowed or intended to be bestowed upon him, except such as is declared by direct law and specially set forth.

In arriving at his authority, we should look to the statute, and see it patent on the face of the enactment, and not be left to deduce it by implication or inference. From the fact that his duties are clearly defined and pointed out, it would follow as a sequence that his authority should be just as clear and explicit. This may be truly said of all merely administrative or executive officers. The principle is quite different in regard to legislative functionaries. Coming as they do from the people, and clothed with far more discretionary power, their authority should be construed with more liberality. In an issue, therefore, where positive law is silent, a presumption at least should at once arise in their favor. But we are not left to such process of reasoning to arrive at this conclusion, since by general law the power of the one is special and the other general. We hold it as true that the executive can hold no power not granted in terms, and that the legislature can exercise any not prohibited. So, if the law should be either silent or doubtful as to which of the two had the power to act in a given case, the legislative department would with all propriety claim it.

The source of the entire authority of the governor of this territory, in the matter under consideration, is specially limited to the twenty-second section of the Kansas act which we have above quoted. By reference to that act, it will be seen that it devolved upon him to declare the places at which, and the time when, the first election for members of the legislative assembly should be held, and that said election should be conducted in such manner, both as to persons who shall superintend such elections and the returns thereof, as the governor shall elect. This is nothing more than an authority to appoint judges of the election, and to direct the manner in which the returns shall be made. It cannot mean an authority to direct in what way the judges shall discharge their respective duties, for it should be presumed that they know the law, and are duly impressed with the duties they have to perform. We hold that a judge of an election, just as any other judge, has a discretionary power in all things where the law is silent, and when that discretion is once exercised, the result thereof becomes final, unless his action is subject to revision by another and higher tribunal. When, however, the law has pointed out the manner in which he shall discharge his duties, its direction must be observed; but when it has failed to do so, it is left to him to act according to the dictates of his own judgment, free from the direction or dictation of others. Nor can an omission of the lawmaking power be supplied from any source. The true guide, then, for the judges of the election of March 30 was their own judgment.

The various states of the union have enacted laws with much care pointing out, in a special manner, the duty of judges of elections; and we feel no hesitation in saying, that if a question should arise in a matter relating to the manner of an election, and not regulated by the statutes, their action would be final and conclusive. We, therefore, hold that in the territory, whose organization is under the jurisdiction of Congress, the judges have the same authority, when no law declaring the manner in which judges shall discharge their offices has been provided by that body. The authority given the governor to direct the manner in which the returns shall be made simply means that he shall appoint the returning officers, name the day the returns shall be sent in, and regulate all things





merely relating to the manner thereof. A grant of power to do this does not carry with it the right to do things which, from their very nature, should be specially given.

It results, then, that it is the duty of the judges to make returns of the votes received by them to the governor. This done, the act provides that "the person having the highest number of votes in each of said council districts, for members of the council, shall be declared by the governor to be duly elected to the council," and makes the same provision in regard to members of the house of representatives. In our opinion, the clear meaning of this clause is, that the persons who, from the returns of the election, have the highest number of votes received as legal by the judges, shall be declared duly elected. Any other conclusion than this would strip the judges of the power to determine the legality of voters. Deprive them of this, and instead of being judges to act in accordance with the dictates of their own judgments, they would be mere executive agents, without the least discretionary power. These were the agents of the people, appointed under the law, to proclaim to the world the sovereign will, and not the opinion of the executive. This they did in their returns, which should be taken as *prima facie* evidence of the qualification of every voter named therein. Now, as these judges were the administrators of the law, no functionary of purely an executive character could go behind this *prima facie* evidence: but some authority, with full power to judge and determine, must, in the event of the validity of the returns being attacked, examine into the facts. There are very many reasons why the governor has not the right to determine absolutely and irrevocably who were duly elected. It is a fully conceded rule of law, not only in the United States, but in all parts of the world where the principle of representative government is or has been observed, that every deliberative body, for the purpose of making laws or other purposes, are the sole judges of the qualifications of its own members. By the English law, from which much that relates to our representative system is borrowed, this rule is strictly observed. The practice in England touching this subject, when the rule is the same as ours, may be taken as a safe precedent.

One of the first legal authorities declares the mode of making the returns of elections for members of the British parliament, and the power of the house to determine the qualification of its own members, to be as follows, viz.: "The election being closed, the returning officer in boroughs returns his precept to the sheriff, with persons elected by the majority, and the sheriff returns the whole together with the writ for the county and the knights, elected thereupon, to the clerk of the crown in chancery, before the day of meeting," &c. But the members returned by him are the sitting members, until the house of commons, upon petition, shall adjudge the return to be false and illegal. The form and manner of proceeding upon such are now regulated by statute and made perpetual, which directs the method of choosing by lot a select committee of 15 members, who are sworn to well and truly try the same, and a true judgment give according to the evidence. The analogy of the statute of England to the rule of procedure in the United States will be readily detected by the least observant. We are of opinion that the power of the governor of this territory in making out the certificate of members is similar, and only similar, to the English clerk of the crown. He should have made out certificates in favor of those who were returned to him as having a majority of votes by the returning officer, and the members having his certificate should be entitled to seats until the body to which they assume to have been elected determine this subject.

It cannot be supposed that in republican America an executive has greater



and more arbitrary power than is given by the English law. If he had the power to determine the character of voters at that election, it could only be done judiciously, and must have the additional power of examining witnesses; for it is only after a hearing of the evidence that it can be judicially determined. The statement of persons not under oath would be entitled to but little weight, and we are utterly ignorant of any authority vested in him to administer such oath.

The fifth clause of the constitution of the United States, which is a reaffirmation of the English rule, declares that "each house (of Congress) shall be the judge of the election returns and qualifications of its own members," &c.

By affirming this power to vest in each house, it negatives the idea of a similar power elsewhere. It may be urged that the authority granted by that clause extends only to the returns and qualifications of members as regards the regularity of the returns and the eligibility of the members; but the English rule shows the true meaning of the clause to be that they have a right to "examine" if the returns are false, and in that event to eject the member. If it is not conclusive from direct law that the governor should not have refused certificates to the members who are now contesting, we find abundant reason why such an assumption was not contemplated by Congress. The fathers of our constitution, appreciating the rights they had won with blood, and being alive to the interests of those who were to follow them, were most careful in protecting each department of government from the encroachments of the others. No subject was of more deep and intense concern to them. Having just rescued themselves from the government of England, they could but contemplate with awe the danger of conferring undue power on either department, or that system of laws which might enable the one to assume the functions of another.

A magnificent government had no charms for them, but a government composed of the people, with each department confined by rigid laws to its respective sphere, was their aim and object. Such a government is ours, with no law beyond the popular will, no power uncreated by it, and no power it may not destroy.

Under our present happy system, the legislative department enacts the laws, the judicial determines, and the executive executes them. Were either capable of encroaching upon the other, the glory of our republic would soon pass away.

In all governments where the will of the people is not the basis of legislation, the supreme magistracy, or the right of both making and enforcing the laws, is vested in one and the same man or body of men; and whenever these powers are united, there can be no public liberty.

If the law would permit the executive to interfere in the organization of the legislative department, the day is not far distant when he would center in himself both the power of making as well as executing the law. Such a result is to be guarded against, and such an attempt should receive the rebuke of every patriot in the land. Suppose the executive of the various states could determine who were the "legally elected" representatives of the people, and could give certificates to those whom he might prefer, and withhold them at will, every member would be merely the appointee of the executive, and their enactments nothing more than his will, instead of the solemnly and formally expressed will of the people. Nor would this evil be limited to the states only; but the legislature, having power of electing senators of the



United States, would be demoralized and corrupted, and the pernicious influence, like a drop of poison in a vein, would soon permeate the entire system.

But if, as we have before intimated, we admit the right of the governor to determine who were lawfully elected, and who constituted members of this council, no one, we presume, would deny that such decision would at least savor of a judicial character.

Then, evidence should have been taken for as well as against the members recognized by us; otherwise the decision was rendered on *ex parte* evidence, and should therefore be deemed void.

The only attempt at proving the alleged illegality of the election of the 30th March was the affidavits of a few persons whose motives or whose veracity it is not our purpose to impugn, as the truth or falsity of their statements in nowise affect the validity of the result. Upon these affidavits, which, in substance, stated that the actual residents were driven by violence from the polis by persons not residing in the territory, and that the votes of these persons were received, the governor pronounced the election void and ordered another.

If we should admit that illegal votes were polled, it by no means follows that all the votes cast for the gentlemen on the pro-slavery ticket were illegal, or that they did not receive a majority of the legal votes cast. Granting that some of the votes were illegal, it would not follow that the election should be declared void; but, rather, that it was voidable by the legislature, and not the governor, to the extent of its illegality. Otherwise how easy would it be for the people to be deprived of their choice by the introduction of a few illegal votes.

Your committee have weighed well the entire subject herein involved, and have come to the deliberate conclusion that the governor had no other power over the election than to define the districts, appoint the judges, grant certificates to those who, from the returns, had a majority, and order a new election in case of a vacancy, or "when two or more persons shall have an equal number of votes." If what we have before said be true, the vacancy contemplated is such as shall be occasioned by death, resignation, or other legal disability, ascertained and declared by the legislative assembly, and not such as may be proclaimed by the governor.

These are the principal reasons by which our minds have been influenced in coming to the conclusion that the election for members of the legislative assembly held March 30, 1855, was legal; that the gentlemen having the greatest number of votes thereat are justly entitled to seats in the respective houses; that the governor had no authority for setting aside the first and ordering the second election; and that the persons thus elected have no just claim to seats in the legislative assembly of this territory.

All of which is respectfully submitted.

A. M. COFFEY, Chairman.

[July 4, 1855.]

[Council Journal, 1855, appendix, p. 17.]

---

#### REPORT OF THE COMMITTEE ON CREDENTIALS OF THE HOUSE OF REPRESENTATIVES.

The undersigned, a majority of the committee appointed by this house as a special committee on credentials, whose duty it was to inquire into and examine the evidence of membership of gentlemen who claim their seats as mem-



bers of this house of representatives of the territory of Kansas, most respectfully beg leave to make the following report:

Having heard and examined all the evidence touching the matter of inquiry before them, and taking the organic law of Congress, passed on the 20th day of May, in the year 1854, organizing the territorial governments of the territories of Nebraska and Kansas, as their guiding star, the only bright and shining light to the port of a true and correct conclusion in the premises, believe and declare, in the first place, that the governor of the territory of Kansas had not the exclusive right or power to prescribe the manner and form by which the first election for members of the first territorial legislative assembly of the said territory of Kansas should be conducted and passed upon; but that a fair construction of the twenty-second section of the said organic act leads them—nay, drives a majority of your said committee—to the conclusion that no particular form of the oath which the judges of said election took was necessary, and that no particular form of the return of said election by the said judges was necessary in order to legalize the said election; but that such oaths and such returns as are usual for judges of elections in the several states to take, perform and return is all that the organic act requires. And a majority of your committee believe, and are of the opinion, from the original papers filed in the office of the secretary of the territory, and other papers and evidence which were before them, that the oaths and returns, and all other acts taken, done, and performed by the judges appointed by his excellency, A. H. Reeder, governor of the territory of Kansas, to hold and conduct the election for members of the first territorial legislative assembly, were in the usual form—at all events as effectual and as legal and binding as if the said oaths and returns had been in the form prescribed by the governor in his proclamation, *verbatim et literatim*.

Indeed, any other construction might lead to usurpation of power, never-ending confusion, and wrong. And besides, it is not to be expected, nor is it required by any rule of law or courts of justice, in the United States or Great Britain, that oaths or affidavits taken and made promiscuously throughout the country shall be uniform; but that any oath or affidavit, taken or made by any officer of any branch of the government, clearly showing the intention of the party taking or making the same to the point at issue or matter of fact to be published or procured, is all that the law requires.

In the second place, the undersigned, a majority of your said committee, are of the opinion and declare, that the said organic act establishing the territorial governments of the territories of Nebraska and Kansas does not give to the governor of the territory of Kansas power generally to set aside elections, nor does it confer upon him the right or power to set aside the election held on Friday, the 30th of March last, in any one or all of the election precincts, unless (in the language of the bill itself, section 22,) that in case two or more persons voted for shall have an equal number of votes, and in case a vacancy shall otherwise occur in either branch of the legislative assembly. In these events, and these events alone, has he power to order a new election.

And this, sir, appears to be a very liberal construction. Mark the words, "that in case two or more persons voted for shall have an equal number of votes," without any qualification. This language might deprive two or more persons, fairly elected by their constituents, of their privileges as members of this house; because, for instance, it is not impossible for A., who might be a candidate for a seat in this house for district No. 1, and B., a candidate also





for a seat in this house in district No. 2, to have an equal number of votes; so that, without liberality in construing this language, the election of both A. and B. might be set aside, on a mere pretense, however trivial. But it is conceded that the governor of this territory has the power, under the organic act of Nebraska and Kansas, to set aside the election in any council or representative district, where either of these contingencies arise.

But it is not pretended on the part of the governor, or any gentlemen claiming seats in this house, that a tie occurred in any representative district, nor that any election in any one or more of the representative districts was set aside on that ground, yet it appears that the election in a number of the representative districts of this territory were set aside, and certificates refused to gentlemen who claimed to be elected by a large majority of their constituents.

Upon what ground, then, were these elections set aside, and certificates refused? A majority of your committee, and they apprehend a majority of the members of this house, are at a loss to know.

It is pretended, however, that these elections were set aside and certificates refused upon the ground of a non-compliance on the part of some of the judges of the election with the manner and form prescribed in the proclamation of the governor of this territory. This, as it has already been shown, was not a legitimate reason for thus setting aside these elections; but nevertheless new elections were ordered to be held on the 22d May last, and a number of gentlemen are now holding their seats in this house by virtue thereof.

Can it be that Congress, in its wisdom, having great experience and the history of the past before them, designed to delegate to one man the power to create a vacancy in the popular branch of this legislature, for his own purposes, on any pretense whatever? Certainly not. But a majority of your committee emphatically deny that any vacancy in this branch had occurred at the time of the issuing of the governor's proclamation ordering a new election in the several districts of this territory where new elections were held and conducted, under and by virtue of that proclamation, or at the time such elections were held and conducted, or at any time subsequent, until the organization of both branches of the first territorial legislative assembly of the territory of Kansas; and certainly none since, for every seat has been occupied from that moment until the present, whether rightfully or not is for this house to decide.

Now, sir, if this be a correct view of the subject, by what authority have the elections in the said several representative districts been set aside? by what authority have certain gentlemen been refused certificates of election? and by what authority has a new election been ordered and held on the 22d day of May last? Verily, none; at least, none that a majority of your committee can see; and the election held in the several districts of the territory on the 22d day of May last is, therefore, in the opinion of a majority of your committee, wholly and entirely illegal, unwarrantable, and not authorized by the organic act establishing the territorial governments of the territories of Nebraska and Kansas, and have therefore disregarded the said election.

Upon the subject of certificates this committee would only remark, that a certificate of election, in the hands of a party claiming a seat in this or any other house of a similar character, is only prima facie evidence of his right to sit until the house shall have passed upon the fact, and nothing more; and that a certified copy of the return of the judges of an election, or the original



return filed in the office of the secretary of state, is also *prima facie* evidence of his right to sit until otherwise ordered by the house of which he claims to be a member; and that it is competent and legal, and in accordance with the best parliamentary law and regulation, for this house, or any similar body constituted as this is, to oust, or in other words to turn out, and refuse to any person the privilege to sit as a member, notwithstanding he may have a certificate of election with the broad seal of a state or territory, as the case may be. The precedents on this branch of our report are so numerous, and so well and so generally understood, that to say more would be but taxing sounds and words wholly unnecessary now.

In regard to those gentlemen who are now sitting members of this house, and whose seats are not contested in this place, are passed without further comment.

But with regard to those whose seats are contested, the majority of your committee, having already declared that the election held on the 22d of May was void *ab initio*, cannot entertain either the certificate of the governor of this territory, or a certified copy of the return of the judges of the said election, nor even the original return filed in the office of the secretary of the territory, and must therefore be governed entirely by the return of the judges who held and conducted the election held on the 30th of March last, in pursuance to and compliance with the just proclamation of the governor of this territory, ordering an election for members of the territorial legislative assembly of the territory of Kansas.

Accordingly, it appears that Mr. A. S. Johnson, from the first representative district, is entitled to his seat as a member of this house.

That Messrs. Joseph C. Anderson and S. A. Williams, from the sixth representative district, are entitled to their seats as members of this house.

That Mr. S. D. Houston, from the eighth representative district, is entitled to his seat as a member of this house.

That Mr. F. J. Marshall, from the ninth representative district, is entitled to his seat as a member of this house.

That Mr. W. H. Tebbs, from the tenth representative district, is entitled to his seat as a member of this house.

That Messrs. J. H. Stringfellow and R. L. Kirk, from the eleventh representative district, are entitled to their seats as members of this house.

That Messrs. Joel P. Blair and Thomas W. Waterson, from the twelfth representative district, are entitled to their seats as members of this house.

That Messrs. H. B. C. Harris and J. Weddle, from the thirteenth representative district, are entitled to their seats as members of this house.

That Messrs. W. G. Mathias, H. D. McMeekin and A. Payne, from the fourteenth representative district, are entitled to their seats as members of this house.

The foregoing gentlemen are those whose seats have not been contested.

And it appears that Messrs. John Hutchinson, Phillip P. Fowler and Erasmus D. Ladd, from the second representative district; Messrs. Augustus Wattles and William Jessee, from the third representative district; and Mr. Cyrus K. Holliday, from the fourth representative district, have received certificates of their election from the governor, declaring them duly elected as members of this house on the 22d of May last. But inasmuch as a majority of your committee have declared that that election was void from beginning to end, and that the governor was not authorized or empowered to order that



election by the organic act establishing this territorial government, they are not entitled to their seats as members of this house.

But that Messrs. James Whitlock, A. B. Wade, and John M. Banks, from the second representative district, are entitled to their seats as members of this house, having received a majority of the votes polled in their said representative district at an election held therein on the 30th day of March, 1855.

Messrs. G. W. Ward and O. H. Browne, from the third representative district, are entitled to their seats as members of this house, having received a majority of the votes polled at an election held in their representative district on the 30th day of March, 1855.

Mr. D. L. Croysdale, of the fourth representative district, is entitled to his seat as a member of this house, having received a majority of the votes polled in his said representative district at an election held therein on the 30th day of March, 1855.

In the fifth representative district, it appears that A. J. Baker received a certificate of election from the governor of this territory, declaring that the said A. J. Baker was duly elected a member of this house, said certificate bearing date the 6th day of April, 1855.

It appears from all the facts in this case of Mr. A. J. Baker, that in his (the fifth) representative district there are two precincts.

A. J. Baker received 25 votes, and M. W. McGee, the contestant in this case, received 12 votes, at one precinct; and at the other precinct A. J. Baker received one vote, and M. W. McGee received 210 votes. The returns of the judges of election from both these precincts are equally effective and equally legal in our judgment, and therefore declare that A. J. Baker, from the fifth representative district, is not entitled to his seat in this house, but that M. W. McGee, from the said fifth representative district, having received a majority of all the votes polled in that representative district on the 30th day of March, 1855, is entitled to his seat as a member of this house.

The foregoing, your committee know, is very imperfect; but the shortness of the time allowed to investigate the subject referred to them did not admit of a more thorough and comprehensive report thereon.

All of which is most respectfully submitted.

WM. G. MATHIAS, Chairman.

A. S. JOHNSON.

WM. A. HIESKILL.

THOS. W. WATERSON.

July 4, 1855.

On motion of Mr. Houston, the following minority report from the committee on credentials was read:

Minority report on contested seats in the house of representatives of Kansas Territory: The minority of the committee appointed on the 2d inst. by this house, for the purpose of examining credentials in certain contested election districts, beg leave to present the following protest:

The government of Kansas Territory, in the opinion of your committee, is an official and progressive one, or, in other words, it is a government whose successive steps of progression is dependent on official action. Congress passes a law designating the president and senate of the United States as the means to a governor, and the governor, when thus appointed, becomes the organizing authority from which the legislative body emanates.

Congress, through the governor, organizes the territory, and through him



continues to retain its connection, and hold and exercise such control as it may from time to time direct.

In the twentieth section of the organic act, it declares that he shall—not that he may, but that he shall—commission all officers who shall be appointed to office under the laws of the territory.

In the twenty-second section of the same act, the organizing steps which the executive shall take are definitely pointed out. He is there ordered to take the census, call an election, specifying the time, place and manner of conducting it. It also requires him to appoint the judges who shall superintend it, and makes him the sole judge of the returns when made out by the judges. It requires him to declare the person or persons having the highest number of legal votes to be duly elected, and confines his commissary power to members thus elected. And in the twenty-third section the governor is further specifically and definitely instructed how to judge of legal voters. It positively decides that no man but a white man, and that one an actual resident, shall be entitled to vote.

Taking this view, which so clearly appears to be the obvious meaning of the organic law, your committee would respectfully beg leave to enter his protest against the report of the majority, in the following particulars:

First, the governor, in whom the organizing power is vested, has, in accordance with his instructions, specifically pointed out in the law, declared, by giving certificates of election to John Hutchinson, Erastus D. Ladd, Phillip P. Fowler, Augustus Wattles, and William Jessee, that they are duly elected members of this house; and consequently those persons claiming seats, to whom the executive power has not given certificates of election, are not entitled to seats in this house.

I cannot agree that this body has the right to go behind the decision of the governor, who, by virtue of his office, is the organizing federal arm of the general government, to evolve and manage a new government for this territory, for the obvious reason that Congress makes him the sole judge of qualifications for membership.

It makes him the channel to, and the organized means of, the existence of this body.

To assume the contrary proposition, is to assert that this legislative body exists before it can have a legal existence. Whatever latitude may be taken in state legislation, with reference to contested elections, they can form no precedent for us, for the plain reason that, while their governments are formed and complete, ours is in a forming state, and therefore incomplete.

In the second place, from the evidence before the committee, great deficiencies appear, not in the form of conducting the election, but in the manner of holding them, both as to the qualifications of judges who presided, and the returns made out by them.

In some cases it does not appear that the judges were legally sworn into office; and in other instances they actually presumed to change the law, by striking out the words "legal voters" and "actual residents," and inserting such words as suited their fancy. It is also further evident, on comparing the census just taken with the election returns, and making all the allowances which extravagance would suggest, that in some districts a great many more votes were actually polled than there were resident voters belonging to said districts.

No doubt but these illegal proceedings, on the one hand, induced the governor to withhold certificates from some who, from the number of votes re-





turned in their favor, might at the same time appear to have been properly elected; and on the other, to have been the ground on which he presented a certificate in one instance, and in another ordered a new election in reference to other districts.

In regard to the right of the governor to order a new election, the organizing object to be accomplished, the intention of Congress which pervades the bill, together with the express language of the bill, declaring that when a vacancy shall otherwise occur he shall call a new election, make it perfectly clear that he possesses the right to order a new election, and compel him to do so. Hence, the members holding certificates by virtue of that election have a clear right to their seats in the house.

The idea that a seat is not vacant until it has been previously filled, though a specious one, is a mere play on words. All over the land the term is used with reference to all unfilled positions, and no doubt Congress uses it in the same sense.

With these facts before me, and my oath to support the organic law to guide me, I feel compelled to wholly dissent from, and protest to, the majority report of the committee on credentials appointed by this house.

We would respectfully request that this house extend time to the gentlemen holding the governor's certificate, in order to enable them to procure the necessary evidence to make good their claim, and we would further request that the protest be entered on the journal of the house, according to a long-established custom in legislative action.

S. D. HOUSTON, Committee.

#### PROTEST.

We, the undersigned members of the house of representatives of Kansas Territory, believing the organic act organizing the said territory gives this house no power to oust any member from this house who has received a certificate of his election from the governor; that this house cannot go behind an election called by the governor and consider any claims based on a prior election, we would therefore protest against such a proceeding, and ask this protest to be spread upon the journal of this house.

JOHN HUTCHINSON.

WILLIAM JESSEE.

AUGUSTUS WATTLES.

E. D. LADD.

July 4, 1855.

[House Journal, 1855, p. 17.]

#### GOVERNOR REEDER'S MESSAGE, JULY 3, 1855.

To the Honorable the Council and House of Representatives of the Territory of Kansas:

Having been duly notified that your respective bodies have organized for the performance of your official functions, I herewith submit to you the usual executive communication, relative to subjects of legislation, which universal and long-continued usage in analogous cases would seem to demand, although no express requirement of it is to be found in the act of Congress which has brought us into official existence and prescribed our several duties.

The position which we occupy, and the solemn trust that is confided to us for originating the laws and institutions, and molding the destinies of a new republic, in the very geographical center of our vast and magnificent confederation, cannot but impress us with a deep and solemn sense of the heavy re-



sponsibility which we have assumed, and admonish us to lay aside all the selfish and equivocal motives, to discard all unworthy ends, and in the spirit of justice and charity to each other, with pure hearts, tempered feelings and sober judgments to address ourselves to our task, and so perform it in the fear and reverence of that God who oversees our work that the star we expect to add to the national banner shall be dimmed by no taint or tarnish of dishonor, and that, when viewed from the trying and scrutinizing standpoint of the future, we shall be subject to no reproach save that which springs from the inevitable infallibility of just and upright men.

In the business of legislation, the very first necessity is the ascertainment of the existing law, as it is impossible to determine what we need in that respect until we ascertain what we already possess. It will be found, I think, upon slight investigation, that we are already provided with an ample and valuable store of laws for the redress of civil wrongs, and the punishment of criminal offenses, which will materially diminish your labors.

The present territory of Kansas has been, at various periods since the treaty of April 30, 1803, with the French republic, a portion of the district of Louisiana, of the territory of Louisiana, the territory of Indiana, and the territory of Missouri; and it becomes necessary to take a brief review of the legislation of Congress relating to it during each of these periods. Immediately after the acquisition of the territory of Louisiana by the treaty before mentioned, provision was made, by act of Congress, passed 31st October, 1803, for its temporary government; which continued the civil, military and judicial powers then existing until the expiration of the first session of the eighth Congress. On the 26th of March, 1804, being the day before the close of said session, the said territory was divided into the territory of Orleans and the district of Louisiana; and the thirty-third parallel of north latitude from the Mississippi west was designated as the boundary line between the two, thus including the present territory of Kansas in the northern division; and by the same act this portion, by the name of the district of Louisiana, was subjected to the government of the territory of Indiana, and became a part of it. The territory of Indiana had been a portion of the old Northwestern territory, which was first organized by the ordinance of July 13, 1787. This ordinance was subsequently adapted to the provisions of the constitution of the United States, by act of Congress of August 7, 1789; and by act of Congress passed May 7, 1800, a portion of this Northwestern territory was organized as the territory of Indiana, to which, as already stated, the district of Louisiana was annexed. On the 3d of March, 1805, the district of Louisiana was again severed from the territory of Indiana, and organized by the name of the territory of Louisiana, and on the 4th day of June, 1812, was converted into the territory of Missouri, with considerable modification of the rules for its government.

It will thus be seen, as I have stated, that the country composing our territory has been successfully subjected to the French code, existing at the acquisition of Louisiana by the treaty of Paris, to the laws of Indiana, derived from the Northwestern territory, as well as those enacted for Indiana after its severance, to the laws of the territory of Louisiana, and the laws of the territory of Missouri. The severance of a portion of the latter territory, and its erection into the state of Missouri in the year 1821, did not, in my opinion, at all affect the laws in force outside of the bounds of the state, which remained as valid after that event as they were before.

Under the ordinance of 1787, amended in 1789, it was provided that a



certain legislative power should be vested in the governor and judges, who were directed to adopt and publish such laws, criminal and civil, of the original states, as they might consider necessary, which were to remain in force unless altered by the legislature. It was also provided by authority of Congress, among other things, that the inhabitants should "always be entitled to the benefit of the writ of habeas corpus and of the trial by jury, of a proportionate representation of the people in the legislature, and of judicial proceedings according to the course of the common law."

By the act of May 7, 1800, erecting the territory of Indiana, a government was provided "in all respects similar to that provided by the ordinance of Congress passed July 13, 1787, for the government of the territory of United States north of the river Ohio; and the inhabitants shall enjoy all the singular, the rights, privileges and advantages granted and secured to the people by the said ordinance," and the same powers were conferred and duties enjoined upon its officers as had been exercised by the officers of the Northwestern territory under the said ordinance.

By the act of 26th March, 1804, annexing the district of Louisiana to Indiana territory, power was given to the governor and judges "to make all laws which they may deem conducive to the good government of the inhabitants thereof"; and it was also further provided, "that the judges shall possess the same jurisdiction they possess in the Indiana territory." This arrangement, however, was of short duration; for, in less than a year, the territory of Louisiana was erected, by a law which took effect on the 4th day of July following, and Congress then vested the entire legislative power in the governor and judges, securing trial by jury in all criminal prosecutions, and in all civil cases involving over \$100, if demanded, and saving all laws previously in force in the district and not inconsistent with the act of Congress.

The act of 1812, changing the name of the territory to Missouri, and taking effect on the first Monday of December following, provided for a more efficient and thorough organization, and was much more comprehensive in its details, vesting the legislative power in a general assembly, but taking care to provide that the people should "always be entitled to judicial proceedings according to the course of the common law, and the laws and usages in force in the territory; and that the laws and regulations in force in the territory of Louisiana at the date of the act, and not inconsistent therewith, should continue in force until changed by the legislative assembly."

The act of Congress organizing the territory of Kansas does not alter the congressional legislation as left on the first Monday of December, 1812, and its results through the territorial legislature, except that it repeals all former laws recognizing or prohibiting slavery, and applies all laws of the United States not locally inapplicable, by which we are to understand all United States statutes enacted for other localities which are capable of being transplanted and adapted to our territory.

The legislatures of the territories of Louisiana and Missouri enacted, of course, many general laws, and among them is a statute of January 19, 1816, adopting for the territory of Missouri the common law and the English statutes in aid thereof prior to the fourth year of James I, with some qualifications.

From this summary, the length of which has been unavoidable, it appears that the laws of the United States, not inapplicable to our locality; the laws of the territory of Indiana made between the 26th March, 1804, and the 3d March, 1805, enacted for the district of Louisiana; the laws of the territory of Louis-



iana; the laws of the territory of Missouri; the common law, and the law of the province of Louisiana at the time of the cession, except so far as the latter have superseded the former, still remain in force in the territory of Kansas. As the common law, to a considerable extent, was adopted for the territory by Congress as late as 1812, and by the Missouri legislature as late as 1816, and it is perhaps the most complete and comprehensive system in the world, it has, without doubt superseded and supplied a great amount of law previously existing. In this mass of conflicting legislation, however, it will impose upon your courts much embarrassment and trouble to decide the questions of implied repeal which will continually arise, and I would, therefore, call your attention to the necessity of curing this evil by some legislation which will declare distinctly which of these previous laws are in force, and which are not.

There are many specific subjects of legislation, some of which are expressly referred to you by the bill organizing our territory, and others spring from the necessity of our community. Prominent among them is the question whether we shall build our government upon the basis of free or of slave labor. Claiming as we do the same capacity for self-government as our fellow citizens of the states, with a far greater, if not an exclusive interest in the institutions and laws which are to exist among us; compelled alone to bear their burdens, and entitled alone to claim their benefits, wisdom, justice, and fairness, would dictate that those laws and institutions, inside of the constitution of the United States, should be molded by ourselves, stimulated by the absorbing interest we must feel in them, rather than by the representatives or citizens of other states, who are no more competent to the task than we, who have no stake with us in their results, and who would most indignantly repel any offer of reciprocity from us in assisting to manage their affairs. The provisions of our territorial organic act secures us this right, and is founded in the true doctrines of republicanism. It may be exercised in various degrees and in various ways, and whenever it is called into action it cannot legitimately be attended with that excitement which is incident to the agitation of the slavery question in the direction of an attack upon constitutional rights. An agitation of that kind, such as we have seen industriously prosecuted in the past history of our country by the destructive spirit of abolitionism, can never be productive of aught but evil, and is calculated in an eminent degree to obscure the glories of the past, to evoke the foulest spirit of discord among the citizens of our common country, and also to mar our brilliant future, if not to endanger the existence of our cherished union.

A want of fidelity to the solemn compacts of the constitution, and an attack upon the rights of the states which are guaranteed by it, can have no justification or excuse. This view of the case, however, is not to be confounded with the discussion and settlement of the slavery question in our territory, in its bearings upon the formation of our institutions. That has been referred to us as an open question by the legitimate action of the nation, and here it is not only the privilege but the duty of every man to speak his opinions freely and enforce them peaceably and fairly. Advocate and opponent stand on the same ground, and must mutually concede to each other the identical measure of right which ~~they~~ claim for themselves. Freedom of opinion and freedom of discussion, without licentiousness, are of the very essence of republicanism at all times, are peculiarly to be respected here. The permanent character and high authority of a state constitution, and the fact of its submission to a direct vote of the people of the territory, indicate that event as a signal occasion for the decision of that peculiar





question. In the meantime, however, a territorial legislature may, undoubtedly, act upon the question to a limited and partial extent, and may temporarily prohibit, tolerate or regulate slavery in the territory, and in an absolute or modified form, with all the force and effect of any other legislative act, binding until repealed by the same power that enacted it.

Among the several objects of legislation which are referred to your action by the act organizing the territory, is the creation and defining of counties. The non-completion of the surveys would seem at first to require a resort to natural boundaries in the performance of this work; but from a map of projected surveys, made in the office of the surveyor-general and kindly furnished me for the purpose, it is probable the county lines may be designated in advance, at least over a portion of the territory. You will decide whether it is expedient to provide that the said designation shall be made before the lines are run on the ground. Of the 18 ranges east on the base line, and the 35 townships south, the lands lying within townships 1 to 15 south, of ranges 9 to 18 east, and continuing on to the Missouri river and state line, will be first surveyed. Outside of these limits it, perhaps, would be premature to adopt the projected lines of survey, as boundaries of counties. The map alluded to is submitted with this communication.

The census of the territory, taken under the provisions of the act of Congress, exhibits a return of 2,904 qualified voters, and an entire population of 8,521 persons, exclusive of Indians and officers, soldiers and employees of the army of the United States not residing in the territory. The census returns, which are submitted for your inspection, contain a considerable amount of statistical information, such as the place of emigration, ages, occupations, etc. This population consists of 5,138 males, and 3,383 females; and it is a fact worthy of remark, as peculiar to a great extent to this territory, that they are not, as usual, collected about one point or along a frontier line, but are dispersed over a district of more than 15,000 square miles. This state of things, although it has its inconveniences at present, is nevertheless highly gratifying, as it indicates that our territory has many points of strong interest, and promises an early development of our resources.

In obedience to the act of Congress, I have, until otherwise provided by law, divided the territory into judicial districts, designated the places for courts, and assigned the judges, as stated in my proclamation of the 26th of February last, which, together with all other proclamations from the executive department, will be submitted to you. The designation of terms of the supreme court was purposely omitted, for the reason that my action was only provisional until the subject could be committed to your charge, and the jurisdiction of the court, as yet being probably only appellate, there could be for some time no business to evoke its action.

The provisions for county courts and the offices connected with them, and the other offices of the territory which you may consider necessary, the laws for regulating and holding elections, the qualifications of voters, the jurisdiction of the supreme and district courts, the election or appointment of justices of the peace and constable, their powers and jurisdiction, the means of settling descendants' estates (so far as their several matters are unprovided for by existing laws), together with other obvious subjects, need no special comment from me. In regard to constable and justices, however, I desire to state that I have issued a number of commissions throughout the territory, which, under the act of Congress, will expire at the end of the present session, and it would probably prevent public and private detriment to authorize them to complete any proceedings which may



then be pending before them. If, as is probable, you shall provide for filling these offices by election, I would suggest that some provision be made for the time that shall elapse between the expiration of the present commissions and qualifications of new incumbents.

The presence in our territory of so large a number of Indians, interspersed as they are with the white population, adds a feature to the indiscriminate sale of intoxicating liquors, which does not exist in other communities. A portion of them indulge, upon almost every opportunity, in the excessive use of ardent spirits, and the friends and enemies of prohibition who are acquainted with the Indian character, and its frenzied developments under the influence of intoxication, will probably all unite in the admission that special precautions in this respect are necessary, as well for the protection of the Indian against degradation as of the whites against violence. The most estimable members of most of the tribes are using their influence to check this evil, and we should second their efforts, as well for our sake as their own.

The cause of education I need scarcely recommend to your especial attention. It is always better to pay for the education of the boy than the punishment of the man. To enlarge upon the necessity of general education for producing a good government would be at this day a work of supererogation, and I leave the matter in your hands, confident that it will receive the attention it deserves.

Levying public taxes at this time, at least to any considerable extent, before our people have secured title to their lands, or realized their products, would be undesirable, unless absolutely necessary; but if you should find it necessary to levy and collect taxes for county or other purposes, I have no doubt the pre-emptor, who claims an inchoate title in his quarter-section, could be assessed thereon for his share of the public burdens.

The location of the permanent seat of government is also referred to you by act of Congress making the appropriation, and in view of the large expenditure necessary for the erection of public buildings, and of the fact that, in case of a removal, the burden of new buildings will fall upon the people of the territory, wisdom would seem to require that this duty should be performed with an eye to the future as well as the present, and to the probable rapid progress of our territory and the probable bounds of a future state.

The organization of the militia of the territory is another subject which will demand your attention; and, in this connection, I have to inform you that the territory of Kansas is entitled to 2,000 muskets, deliverable in kind, and also to 137 muskets, being the annual appropriation for 1855 from the general government. The annual appropriation may be commuted for other arms or field-artillery, at cost. These arms are deliverable at any accessible point in the territory, on the requisition of the governor, and will be called for whenever the legislation of the territory shall make it necessary or expedient.

A. H. REEDER, Governor, etc.

Executive Department, July 3, 1855.

#### PROTEST.

On motion of Mr. Coffey, the following protest was ordered to be spread upon this journal:

We, the undersigned, members of the first legislature of the territory of Kansas from the second and third council districts, elected on the 22d of May, 1855, agreeable to the governor's proclamation, to fill vacancies in said districts, wherein the people, on the 30th of March, 1855, were deprived of their right of choosing members from those districts by force of arms:



We most respectfully ask leave of this general assembly to enter our solemn protest against being denied our seats in said general assembly, for the following reasons:

1st. We are the choice of the people of said districts.

2d. The governor has declared us duly elected.

3d. He is the only officer that the organic act of Congress gives the power to investigate elections, and declare who are legally elected members, until an election law is passed by the legislature taking this power from the governor.

We maintain that his certificate entitles us to seats in this general assembly. We, therefore, respectfully request that this protest be entered upon the journal of this council, in accordance with a long-established practice in legislative bodies.

JOHN A. WAKEFIELD.

JESSE D. WOOD.

Council Journal, July 3, 1855.

### VETO MESSAGE.

To the House of Representatives of the Territory of Kansas:

I return to your house, in which it originated, the bill entitled "An act to remove the seat of government temporarily to the Shawnee manual labor school, in the territory of Kansas," with my objections. I cannot give the bill my official sanction for several reasons. It provides "that, until the seat of government is located by law, the governor and secretary of state (by which is doubtless meant the secretary of the territory) shall respectively keep their offices at the Shawnee manual labor school."

This permission seems to be peculiarly objectionable. The legislature and executive departments, here, as elsewhere, are entirely independent of each other in the performance of their respective duties within their separate spheres, and must each be left to the discharge of their own proper functions, independent of the control of the other, in any way that would interfere with the exercise of that discretion which is properly confided to them. Under our organic law, there is even yet another consideration bearing upon this well-known doctrine, which forces itself upon our attention.

The executive department is an emanation of the power of the federal government, represents the authority of that government, and the incumbent is appointed by it. His duties are defined by Congress, who may at any time restrict or enlarge them, and prescribe the mode in which they shall be performed, and to the federal government alone, from which this power is derived and by which his movements are directed, is irresponsible for the manner in which his official functions are performed. This controlling power over the territorial executive can neither be taken away from Congress by the territorial legislature, nor can it be exercised by the latter concurrently with the former, because this would involve the possibility of an irreconcilable conflict between the two. The control of the executive is not parted with by Congress under the twenty-fourth section of the organic law, because, as already shown, such control by others would be inconsistent with the spirit of the act. The general government has legislated in various portions of the act as to the general duties of the executive and, in reference to this point particularly now involved, have gone as far as they then deemed expedient, by providing that the governor and secretary shall reside in the territory. They may at any time go further, and provide at what point of the territory the offices shall remain; but we must await their action in the matter as that of the only power which can prescribe it; so long as they see proper to leave to



the incumbent of the executive department the privilege of locating his office anywhere within the territory, that privilege cannot be taken away by the territorial legislature.

When the actual seat of government is fixed by competent authority, it would certainly become the duty of the executive to locate his office there, and this brings us to the inquiry, whether the bill which I now return is within the rightful powers of the legislature as conferred by Congress.

It professes to locate the seat of government temporarily, as contradistinguished from a permanent location. This distinction is well founded and well understood, and is recognized as well in the organic law as in the act of Congress of March 3, 1855, and a temporary seat of government is recognized as one upon which none of the public money appropriated by Congress shall be expended in the erection of public buildings.

By the organic law, the governor was vested with the power to fix the place for the meeting of the first legislative assembly. By the same law, Congress themselves fixed the temporary seat of government, and by act of March 3, 1855, they conferred upon the legislature the right to fix a permanent seat of government. The power of the legislature is thus clearly defined. Congress has chosen to confine one branch of this subject to the governor, to retain another for themselves, and to commit the third to the legislature.

The temporary seat of government may or may not be used, and this will depend upon whether the legislature shall leave the place fixed for their meeting by the governor, before they shall fix upon a permanent seat of government. Congress having already fixed a temporary seat of government for the territory, the only effect of the bill which I now return to you would be to repeal the thirty-first section of the Kansas bill, which involves the exercise of a power far beyond the functions of the legislature.

The legislature may undoubtedly, by virtue of the act of Congress passed March 3, 1855, entirely supersede the temporary seat of government by a permanent location, upon which the public appropriation is to be expended for buildings; but in no other mode can the object be attained. Had Congress abstained from fixing a temporary seat of government, the legislature might, perhaps, by implication, have had the power to do so; but when they exercise it themselves, and, in the same law, prohibit the legislature from any legislation inconsistent with the provisions of the act, it would seem that the door is closed for any such legislation as contemplated by the bill which has been submitted to me.

It follows, then, that the legislative assembly have no right to prescribe where the office of the executive shall be held, except by means of the establishment of a seat of government, and that they are confined to the fixing of a permanent and not a temporary one; and it would seem equally clear, that as Congress has provided for the place of their first meeting, for the temporary seat of government and also for the permanent seat of government, that it was their intention that the legislature should sit only at one place of the three.

Conclusive as this view of the case appears, I may add that I cannot perceive the expediency of the bill. Its effect will be at once to adjourn your present session to the place mentioned, and whilst I am prepared to admit that the legislative assembly are satisfied of the existence of sufficient reasons for this step, those reasons are not apparent or convincing to me; and on the other hand, it is the loss of the time (more valuable because limited) which our organic law allots to





the legislative session, and because it will involve a pecuniary loss, in view of the arrangements which have been made at this place for our accommodation.

Executive Department, July 6, 1855. A. H. REEDER, Governor, etc.

[House Journal, 1855, p. 29.]

#### RESIGNATION OF S. D. HOUSTON.

To his Excellency A. H. Reeder, Governor of the Territory of Kansas :

Dear sir—On the 30th day of March last, I was legally elected to a seat in the house of representatives of this territory, and received a certificate of election to that effect from you. I now, most respectfully, beg leave to tender you my resignation, with a brief review of some of the principal reasons which have led me thus to vacate my seat at a time when the affairs of Kansas so imperiously demand special legislation.

I cherished the thought that it would be both pleasant and profitable to enjoy the society of older and wiser men than myself in laboring to frame wholesome laws for the regulation of this beautiful land. But I now feel compelled to retire from a position which I can no longer honorably retain with credit to myself and to the people I have the honor to represent.

Elected as I was by more than a threefold vote over my pro-slavery opponent, a gentleman of intelligence and ability, I felt that I could not honorably disregard the interests and wishes of my constituents while there remained any just ground on which I could retain my seat. This fact caused me to continue in a position from which, ordinarily, in the circumstances, I should have retired on the reception of my certificate.

The pressing necessities of our people in this wilderness land, destitute as we are in a great measure of wholesome laws, organizations, and all those varied benefits which result from a well regulated, civil arrangement, I felt disposed to pass over much that was clearly illegal; but I am fully convinced that, bad as it is to be without law, it is far preferable to an organization effected at the sacrifice of all that is just and noble in individual position, and all that is grand, fundamental and distinguishing in American principles.

In a representative government like ours, many things may and should be passed over; but there is a point beyond which we cannot go without the most servile surrender of all our rights and liberties. But permit me to briefly specify a few points: First, I would call your attention to the fact that at the March election, so far as I can learn, there was not a district, not even my own, which was not visited at some point by a band of invading Missouri voters. At some points, while the polls fell into the hands of numbers and power, many of the legal voters, grieved and disgusted, retired from the place without voting. This assumption of power, so flagrant, so perverse of human rights, so destructive to all civil order, and so utterly repugnant to the grand idea which underlays the whole republican superstructure, was, in my opinion, a sufficient reason why I should have returned my certificate of election to you without a moment's hesitation. But I allowed myself to yield to the solicitations of friends, the pressing wants of the country, hoping that such a moderate course would be pursued by the legislative body as would be submitted to by the people.

To retain a seat in such circumstances, ordinarily, would be a condescension too inglorious for the spirit of an American freeman; but, dishonorable as it would be in older and far differently situated portions of the union, still I feel that the peculiar and pressing necessities of our situation were such that I was



disposed to remain at my post to the present hour, and I have no doubt that these reasons influenced your excellency to put the most liberal construction on the organic act and the facts in the case, and to give certificates of election to a number who, you may have felt, were not justly entitled to them.

If the legislative body thus composed had contented themselves with this preliminary achievement, I should have submitted; but the first triumph seems to have accelerated their progress to new, wilder and more bold assumptions of power—assumptions which are both unreasonable and unconstitutional, and which must, if not checked, precipitate this territory into a state of complete anarchy.

The second fact I would notice is, that the legislature had no sooner been organized at Pawnee, the place to which your message had convened it, than a systematic effort was made to remove from it a portion of its members, obviously for no other reason than that their views were inimical to slavery. These members had their certificates of election from you, and composed more than a fourth part of the Kansas legislature. These, the real representatives of the districts from which they came, the "duly elected" members of the body, were expelled, and their seats given to those who were not legally elected. The introduction of these illegal elements into the legislature was sufficient to vitiate its doings, and render null and void all its subsequent acts. Still, in the peculiar circumstances, I was disposed to believe that the people would submit to their enactments; but this act, so manifestly illegal, was speedily followed by another, which removed the legislature from the constitutional place of holding its sessions, and created an additional temporary seat of government for the territory. This act also obviously contravenes the express provisions of the organic act which we have sworn to support.

Believing, as I did, that if a fair expression of opinion could be had in Kansas, it would appear that quite a large majority of the legal voters were decidedly opposed to the present legislature, and seeing laws passed which positively contravened the expressed provisions of the constitution which I had sworn to support, led me to think of resigning my seat, and probably cause your excellency to interpose your official authority to arrest legislative action. This barrier, which your position as governor of the territory demanded, and which the people had the right to expect, places the legislature in a new and embarrassing position—one in which I had neither inclination nor instructions to act.

These facts, together with the additional one of hearing representatives declare positively that some of the members of the house were not now and never have been residents of the territory, but are living in the state of Missouri, caused me, mortified and disgusted at the assumptions of my countrymen, to retire from a position which I could no longer retain with credit or honor to myself, or justice to my constituents.

They have led me to place but little faith in the plant of "territorial sovereignty," when placed in the shade of Missouri's overshadowing tree.

Against the members of the legislature I have no personal feelings, but on the contrary, while I cannot but feel that their position is utterly subversive of the dearest rights of American citizens, towards them I entertain no feelings but those of kindness.

All of which is most respectfully submitted.

In haste, yours, etc.,

SAMUEL D. HOUSTON.

[House Journal, July 23, 1855, appendix, p. 27.]



## MEMORIAL FOR THE REMOVAL OF GOVERNOR REEDER.

To his Excellency Franklin Pierce, President of the United States:

The undersigned, your memorialists, members of the council and house of representatives of the territory of Kansas, respectfully represent that a crisis has at length arrived in the affairs of this territory, which make it imperative that you should interpose, so that our government (the wheels of which have been dragging so heavily heretofore, and which have at last come to a stand) may be relieved of the clog which has been attached to it, and be enabled to move once more in its regular course.

A brief history of our territory, written and unwritten, since its organization, will enable you to see the causes which have conduced to this end; and the remedy being in your own hands, we trust and believe you will not hesitate immediately to apply it.

On the 30th of May, 1854 (more than one year since), the bill opening the territory for settlement west of Missouri and Iowa was passed. The public, excited by the glowing descriptions of those who had been in the territory, and by the debates in Congress regarding the future political destiny of this newly opened country, immediately rushed in by thousands from every quarter of our wide-spread union. No territory ever organized by this government has been peopled with half the rapidity of this, save California, owing to the unnatural stimulus above alluded to. A people thus numerous, thus diversified from birth, education, previous associations, and present intention and objects, required, it seems to us, for their government, the most prompt action on the part of those called on to preside over them. From the month of May until October there were no officers here, the governor appointed to organize the territory, under the provisions of the bill, arriving in the latter month.

So soon as it was ascertained by rumor that he had arrived (for he never in any way made it public), it was presumed that he would immediately order the census of the territory to be taken, an election for members of the legislative assembly to be held, and call them together at once, so that laws might be enacted for the preservation of the public peace and weal. But what was the course pursued by that official? The citizens of our territory received him with open arms, and even in Missouri, the state bordering on our line, he was tendered a supper on the day of his arrival, to enable him to meet with the distinguished gentlemen of that section of Missouri, together with the private citizens of the vicinity. Received thus frankly and cordially both in Kansas and on the border, urged time and again to provide for the election of a legislature—the people knowing of no laws in force, and the governor himself having no settled opinion on the subject—appointing justices of the peace in various sections of the territory, some of whom enforced the Pennsylvania, some the Ohio, and some the Missouri code, acting as a matter of course under his instructions—still, with all these various imperative necessities urging his compliance, he heeded them not, but assumed himself to act as the lawmaking power, by prescribing the various codes above, and usurping the powers of the judiciary in issuing writs, and sitting as an examining court upon the charge of "assault with intent to kill," the prisoner being at the time incarcerated within the walls of a prison; and before discharging him demanding his recognizance, which was taken, however, by a judge whose district had not as yet been assigned him.

In the midst of all this confusion, turning coolly from those who had thus warmly welcomed him, associating with those only from one particular sec-



tion of the union, persisting in not adopting that course which alone could produce order from this chaos, it is not singular that loud complainings should be heard, and that sinister motives should be attributed to him for his conduct.

The governor then commences his course of speculation, beginning by arraying himself directly in opposition to the opinions of the general government, as expressed by the attorney-general, in relation to Delaware lands, by purchasing property on those lands, and stating that the opinions of the law officer of a general government were incorrect, and of no force if correct; thus setting an example of insubordination to those less informed, and which may end in a conflict between the people of this territory and the general government, unless the rights of the squatters on those lands are recognized in conducting the sales of them. He then commences a tour of observation through the territory, for the ostensible purpose of preparing for a census, etc., but which from his subsequent conduct proved to be only one of speculation, for he was known to be a large shareholder in many of the various town companies throughout the territory. Finally, in the month of February, when the snow was some two feet in depth, he ordered a census to be taken (the herculean task which had so alarmed him), and it was so taken in about three weeks, under the unfavorable circumstances above stated.

A proclamation was then issued for an election of members to the legislative assembly, to be held on the 30th of March, 1855, said proclamation containing a section claiming by the governor, the right to decide contested elections, thereby virtually claiming the right to override the will of the people, as expressed through the ballot-box, and to fill the legislature with whomsoever he chose—virtually disfranchising every man in Kansas Territory, and also enacting a Maine liquor law, by providing for the destruction of liquor under certain circumstances. After the contest was over and the result known, he delayed the assembling of the body until the second day of July, more than three months afterward, and that, too, when the whole union was convulsed on account of alleged outrages in Kansas Territory, and yet no law for the punishment or prevention of them. When at last they did meet, upon the call of the governor, at a point where they had previously, in an informal manner, protested against being called, with an avowal of their intentions to adjourn to the point at which they are now assembled, for the reasons that the requisite accommodations could not be had; where there were no facilities for communicating with their families or constituents; where they could not even find the common food to eat, except at an enormous expense, there being no gardens yet made by the squatters; where the house where we were expected to assemble had no roof or floor on the Saturday preceding the Monday of our assembling, and for the completion of which the entire Sabbath day and night was desecrated by the continued labor of the mechanics; where at least one-half the members, employees, and almost all others who had assembled there for business or otherwise had to camp out in wagons or tents during a rainy, hot season, and where cholera broke out as a consequence of the inadequate food and shelter, and where, under all these circumstances of annoyance, they finally passed an act adjourning to this point, where ample accommodations are provided, and where the governor himself had previously made it the seat of government, they were met by his veto, which is herewith transmitted.

The bill was reconsidered by the house in which it originated, and passed by the majority prescribed by the organic act, then acted upon by the other house, and also passed by the same prescribed majority—a copy of which proceedings





is herewith transmitted. Upon our assembling at this point, in accordance with a concurrent resolution, passed as contemplated by the law, transmitted to you, we passed various bills, which were sent to the governor for his approval. On the 21st of July he returned the bills with his objection to signing them (all of which we herewith transmit), addressed to the "house of representatives of Kansas Territory" and "to the council of the territory of Kansas," respectively—by which he assumes that we are not "house of representatives of Kansas Territory," nor the "council of the territory of Kansas," which, to say the least of it, is a glaring inconsistency, yet not more so than the rest of the document, which you will perceive by reading the points made by him. We will briefly state them without an argument, to show their utter fallacy, so shown by himself, as we are confident that you will perceive them at a glance. One point is, that Fort Leavenworth is the seat of government, made so by the organic act: that a law passed anywhere else than at the seat of government would be illegal. That he had the right to call the legislature to meet at a point not the seat of government (that is, Pawnee), and that laws enacted there (though not the seat of government) would be legal, thereby destroying the preceding proposition. That we could have passed an act at Pawnee—though not the seat of government and therefore illegal—establishing a permanent seat of government, and by an illegal adjournment—because passed at a point not the seat of government—have met at such permanent seat of government, and there have made legal and binding statutes; or, by the same illegal process, have adjourned to Fort Leavenworth, the seat of government, and there have made legal and binding statutes.

We would respectfully represent that, if the above are the honest opinions of Governor Reeder, you must admit his utter incompetency to discharge the high duties imposed upon him, and he should be removed. If they be not his honest opinions, then is he acting with the sinister design of defeating the whole object for which we are assembled.

If he believes that Fort Leavenworth is the seat of government, and that laws passed anywhere else than at that point would be illegal and void, then to call us to Pawnee to legislate is a wilful, deliberate and base attempt to render all our acts, of whatever character, wholly illegal and void; because, by his own showing, Pawnee is not the seat of government, and acts passed anywhere else than at the seat of government are of necessity void, and for which he should be removed.

We will not proceed further with this, but will simply aver that, from the action of Congress, Fort Leavenworth is not now the temporary seat of government. The bill provides, in the thirty-first section, that Fort Leavenworth shall be the temporary seat of government, and that such buildings as may not be needed for the use of the military, shall be used for the governor and legislative assembly. A subsequent clause of an appropriation bill provides for the appropriation of \$25,000 to be expended upon the contingency, or rather the appropriation made upon the contingency, that the requisite buildings could not be obtained from the military or war department. That appropriation having been made and paid over, proved conclusively that the contingency mentioned has arisen, and that the buildings are refused.

A subsequent appropriation, made on the 3d of March, 1855, provides that the sum of \$25,000 be appropriated, and that, in addition to the amount already appropriated, shall be expended in making suitable buildings at the permanent seat of government. Now, if Fort Leavenworth is the seat of government, and the place for the legislature to meet and transact business, then this absurd consequence follows: That they must meet and transact business at Fort Leavenworth; that they shall not use any of the buildings already erected there; and



that they shall not have any of the money to erect other buildings which could be occupied.

Now, as the law never contemplated an absurdity such as this, forcing a legislative assembly, even though composed of squatters, to meet out-of-doors and forbid their erecting houses, we infer that the thirty-first section of the bill is virtually repealed; and having no seat of government selected by competent authority, the selection of the point for the temporary seat of government legitimately belongs to the legislative assembly, whenever and wherever convened. And we further submit, that according to the spirit and letter of the law, we have that right, even if Fort Leavenworth be the seat of government. We submit that, as all government is for the good of the governed, and as this is one of the legitimate subjects of legislation, vested in every state in the union; and as there could have been no intention on the part of the wise and good men who framed this bill, when they fixed the seat of government temporarily, to have done so other than for the comfort and convenience of the sovereigns; that they never intended to fix an arbitrary rule which the people could not alter, if found inconvenient: that it was more a permission granted by Congress that we might have the use of those buildings, or sit at that point, than a command, and we should not select another point, if more desirable.

We will and do further represent, that the position assumed by the governor is a despotic and tyrannical one, calculated to lead to the worst consequences, if he is not forthwith removed.

Already threats in advance have been made that no respect will be shown to any act passed by this legislative assembly, whensoever and wheresoever such act or acts may be passed. Several papers in the territory boldly advocate this position. A man professing to have been elected to the legislature (M. F. Conway), who afterwards tendered his resignation, advocates this doctrine of resistance. The governor is and has been on terms of intimacy with these very persons; and, with him as their leader, they may be led to the commission of acts which will inevitably result in widespread strife and bloodshed.

Now, we submit that the course pursued by the governor is unwarrantable and factious, even if he is right in the opinions advanced that our acts are illegal and void. The courts are the tribunal to decide this issue, and no man, governor or private citizen, has a right to set the laws at defiance, even if unconstitutional and void, until so decided by the proper courts.

This principle is so well understood that we are not prepared to imagine that Governor Reeder is ignorant of it, even taking his own arguments as an index of his intelligence; and there must be a wilful and base design to lead the less informed into the commission of treasonable acts, for which he should be removed.

In conclusion, we charge the governor, A. H. Reeder, with wilful neglect of the interests of the territory; with endeavoring by all the means in his power to subvert the ends and objects intended to be accomplished by the "Kansas and Nebraska bill"; by neglecting the public interests and making them subservient to private speculation; by aiding and encouraging persons in factious and treasonable opposition to the wishes of the majority of the citizens of the territory, and the laws of the United States in force in said territory; by encouraging persons to violate the laws of the United States, and set at defiance the commands of the general government; by inciting persons to resist the laws which may be passed by the present legislative assembly of this territory; and, finally, by a virtual dissolution of all connection with the present legislative assembly of this territory.

For these and many other reasons, we respectfully pray your excellency to re-



move the said A. H. Reeder from the exercise of the functions now held by him in said territory, and represent that a continuance of the same will be prejudicial to the best interests of the said territory. And, as in duty bound, we will ever pray, &c., &c.

THOS. JOHNSON, President of the Council.

JOHN H. STRINGFELLOW, Speaker of the House.

*Members of the Council:*

WILLIAM BARBEE.	E. CHAPMAN.
A. M. COFFEY.	JOHN W. FORMAN.
D. A. N. GROVER.	A. McDONALD.
RICHARD R. REES.	WILLIAM P. RICHARDSON.
H. J. STRICKLER.	

Attest; J. A. HALDERMAN, Secretary of the Council.

*Members of the House:*

JOSEPH C. ANDERSON.	W. H. TEBBS.
O. H. BROWNE.	THOS. W. WATERSON.
A. S. JOHNSON.	SAMUEL A. WILLIAMS.
M. W. MCGEE.	F. J. MARSHALL.
SAMUEL SCOTT.	JOEL P. BLAIR.
GEO. W. WARD.	H. B. C. HARRIS.
JAMES WHITLOCK.	W. G. MATHIAS.
H. W. YOUNGER.	A. PAYNE.
JNO. M. BANKS.	A. B. WADE.
D. L. CROYSDALE.	JONAH WEDDLE.
R. L. KIRK.	A. WILKINSON.
H. D. McMEEKIN.	

Attest: JAS. M. LYLE, Clerk of the House of Representatives.

REPORT OF THE COMMITTEE ON JUDICIARY.

The committee on judiciary and criminal jurisprudence feel deeply sensible of their duty and the importance of their position; but inasmuch as they shrink from no responsibility which either this house or the people of the territory at large impose upon them, they have considered the various subjects referred to them, contained in the message of his excellency A. H. Reeder, governor of the territory of Kansas, and beg leave to report as follows:

The first legislative assembly of any territory is a body always looked to with more than ordinary interest, having the important and solemn duty of shaping for its people their laws, and laying the foundation of the general principles of its government. But the position of this, the first legislative assembly of the territory of Kansas, is not only peculiarly important to the people thereof, but of the deepest and most profound interest to the people of the whole union; and the shape and tone of the laws which may be enacted by this body will be so scrutinized by the people of every state that it behooves us to give you such deliberation to every act we pass that will secure character both for ourselves and our laws, at home and abroad.

The circumstances under which the people of this territory have begun their political history were entirely different from those of any other people since the first blow for a republican form of government was struck on this side of the great Atlantic. Hitherto congress have retained to themselves the power to mold and shape all the territorial governments according to their own peculiar notions, and to restrict within very limited and contracted bounds, both the



natural as well as the political rights of the bold and daring pioneer, and the noble, hard-fisted squatter. Without inquiring into the fact whether or not this power legitimately belonged to congress, and that they legitimately exercised it by the passage of the Kansas-Nebraska bill, congress (if any power ever invested in them) have now clearly parted with it, and delegated to the people of these territories the right to frame and establish their own form of government. This principle is one the exercise of which should have never been denied to the people of any territory, and the exercise of which has well-nigh destroyed the great superstructure of the most grand governmental fabric that has ever had an existence in the world.

For who is it that has paid the least attention to the discussion of this principle in the halls of congress that does not know that the pillars which uphold this glorious union of states were shaken, until the whole world was threatened with a political earthquake, the effect of which would have buried republicanism and all its concomitant blessings beneath its ruins? The principle that the people are capable of self-government would have been forever swallowed up by anarchy and confusion, and political demagogues ruled the world all over.

But the political horizon is once again beginning to brighten, and the dark clouds of fanaticism are flying with the rapidity of thought before the storm of popular sovereignty. No wit can teach, or understanding penetrate the future, and say that by a strict adherence to the principle laid down in the Nebraska-Kansas act, young and proud America, although tottering beneath the heavy load of a thousand and one "isms," and tattered and torn by the hurricane of distractions of every sort, will not yet rise in the majesty of her strength, pre-eminently potent, great and powerful, the admiration and fear of the whole world.

The question of slavery is one that now convulses the whole country, from the boisterous Atlantic to the shores of the mild Pacific. This state of things has been brought about by the fanaticism of the North and East, while up to this time the people of this South, and those of the North who desire the perpetuation of this union, and are devoted to the laws, have been entirely conservative. But the time is coming—yea, it has already arrived—for the latter to take a bold and decided stand, that the union and constitutional law may not be trampled in the dust, and this government, which has been sealed by the blood of our fathers, live, like the gates of Palmyra, only in song.

No government can, or ever exist without law. However peaceful and quiet a people may be, it is necessary that they should be subjected to law; but the law should be based on the principles of justice and equality, affording protection to the weak against the strong, and at the same time dealing out even-handed justice to all.

It may not be improper to remark here, that the people of this territory have been without law, or at least without any legal, defined rule of action, and almost the shadow of a government for more than 12 months; yet we find that less crime has occurred among them than amongst any community, state or territory under the jurisdiction of the constitution of the United States; and when it is remembered that this people have been promiscuously thrown together, it argues much for the good character of those for whom this, the first territorial legislative assembly of this territory are to legislate. And whatever may now be said with regard to the character of the pioneers of Kansas, history will record a fact of which the children of these bold and energetic sovereigns will be proud, and that is, that amid all this legal blindness and confusion, together with outrages of





northern "isms" constantly aggravating and exciting our people, a decent respect for law and order has prevailed among them.

And whatever may have been the decisions of the courts, or whatever may be the decisions of the tribunals having jurisdiction to pass upon the law, by them or others learned in the legal profession, considered to have been or now considered to be in force in this territory, one thing is clear and palpable, and that is, that much clashing and difference of opinion has and will ever continue to exist unless this present legislative assembly takes such steps as will be adequate to the removal of all doubt and apprehension: and that step would be at once to sweep away, at one blow, all laws which may have been hitherto in force over this territory, as well as those supposed to have existed or are now supposed to exist other than those enacted by this legislature and the acts of congress which have been extended over this territory by the organic act organizing the territories of Nebraska and Kansas. The reason for such action on the part of this body is obvious, notwithstanding the governor in his message has thought proper to assert otherwise, in the words following, to wit: "That the laws of the United States not inapplicable to our locality—the laws of the territory of Indiana made between the 26th of March, 1804, and the 3d of March, 1805, enacted for the district of Louisiana, the laws of the territory of Louisiana, the laws of the territory of Missouri, the common law, and the law of the province of Louisiana at the time of the cession, except so far as the latter have superseded the former, still remain in force in the territory of Kansas."

Instead, therefore, our labors will be increased rather than diminished.

A glance at the political history of the whole Northwestern Territory, of which this is a part, will show conclusively, in the first place, the uncertainty of the laws hitherto extended over this territory; and, in the second place, the difficulty to ascertain their specific application.

Should this view of his excellency be correct (which we doubt exceedingly), still the embarrassment of our courts of justice would be so great, that to arrive at a sound and correct conclusion upon any point of legal dispute, would require the time of months and even years, and thus would the prosecution of a suit, either civil or criminal, be sluggish and uncertain.

All that territory now embracing the state of Ohio, and all the states north and west of that state, together with the territories of Kansas and Nebraska, was embraced in the great Northwestern Territory, out of which many states have since been formed—the then wide, desolate waste where the red man roamed free and unrestrained, monarch of all he surveyed, sole owner and proprietor of millions upon millions and thousands of millions of acres of land—the soil of which is unsurpassingly rich and inexhaustible, is now covered with a people both civilized and Christianized, and the barren waste made a garden, producing all the necessaries and comforts of life. When we contemplate this subject, the mind becomes sick with wonder and astonishment. Little more than half a century ago this whole western country was a barren waste and wild wilderness, wholly uncultivated and unproductive, save the spontaneous growth of vegetation, overrun with the savage and the beasts of the forest. Now cities and towns comprising thousands and tens of thousands of people, civilized and refined, are scattered over it, and the whole surface of the earth studded either with the cabin or the cottage. Instead of the densely crowded forest, whose trees were but the living monuments of inexhaustible strength of the soil, and the vast though beautifully undulating prairie, we have one unbroken landscape, whose beauty and grandeur make the heart leap with joy.



And our fair territory, though but the age of a moment, as it were, is going on to prosper and prosperity; thousands of people have left the homes of their fathers and the firesides of their mothers—their friends and all the near and dear attachments of early youth and riper manhood, to cast their common lot together, to tame another wild wilderness, to change savage barbarism to civilization and Christianity, and to add one more proud and potent sister to the federal union. Progress is on the wings of the wind; then “while the day is ours let us be up and doing.”

Our first work, then, is to ascertain what laws (if any) extended over this territory immediately after the passage of the Nebraska-Kansas bill, as our existence as a people depends entirely on law; without law anarchy would reign supreme, and unhappy confusion swallow up and destroy us.

Notwithstanding the present territory of Kansas has changed its legal position from time to time since the treaty by government with the French republic, and embraced in the several territories of Louisiana, Indiana and Missouri, these changes however, cannot have any effect upon the condition of this territory in a legal point of view. For the moment the act approved 30th of May, 1854, entitled “An act to organize the territories of Nebraska and Kansas,” had its legal existence, a new face presented itself, and doubts were entertained, not whether the laws of the district or territory of Louisiana, Indiana or Missouri were in force here, or that the laws of either one were a part of our embryo code; but the question was whether or not all law, except that embraced in the organic act itself, and those of the United States not locally inapplicable, as extended to this locality under that act, were swept entirely away; and hence numerous difficulties at once presented themselves to the minds of all, and no rule of action could be agreed upon; nor can anyone, however learned in the law, and however well acquainted with the history of the western country, form an opinion that would quiet the thousand and one apprehensions afloat in regard to the subject-matter now under consideration. An attempt therefore to ascertain, unless by special enactment by the legislature, what laws (other than those of the United States) had any applicability in this territory, would be fruitless, and render “confusion worse confounded.”

Although law is considered to be, and has obtained the character of, a science, nevertheless by many it is regarded as an uncertainty at best; and should this present legislative assembly fail to declare in plain and simple terms what particular law or laws should be extended over this territory, courts of justice would be regarded as a mere machinery of chance, depending entirely (in common parlance) on luck—nothing more nor less than a game of chance.

To ascertain what law was really in force in the territory of Kansas, even should the view of his excellency A. H. Reeder be a correct one, would not only be a work of supererogation and useless, but would require more time than is allotted to this body to sit, and more attention and care than a legislative body could give to it, on account of peculiarly varied duties of each and every legislator.

As to what is and what is not law in this territory, is a question that not only persons learned and skilled in this science differ, but those even who have been appointed to expound and administer the law differ. It is not clear, then, to a legal mind, “that we are already provided with an ample and valuable store of laws for the redress of civil wrongs, and the punishment of criminal offenses.” But, upon the contrary, any one who knows anything about the operation and effect of statutory law well knows that a more con-



fused state of a legal rule of action could not be imagined or could not exist than did exist before this legislative assembly was convened, hence there is a crying necessity for speedy legislation upon this subject.

By the act of congress, approved May 7, 1800, entitled "An act to divide the territory of the United States northwest of the Ohio into two separate governments," "all that part of the territory of the United States northwest of the Ohio river which lies to the westward of a line beginning at the Ohio opposite to the mouth of the Kentucky river, and running thence to Fort Recovery, and thence north until it intersected the territorial line between the United States and Canada," was organized into a territorial government called the "Indiana Territory." This division embraced all the territory belonging to the United States that was not then erected into state governments, and the laws provided by the ordinance of congress passed on the 13th day of July, 1787, for the government of the territory of the United States northwest of the Ohio river, was extended over it, as will be seen by reference to the second section of the aforesaid act of May 7, 1800, in the words following, to-wit: "That there shall be established within the said territory a government in all respects similar to that provided by the ordinance of congress passed on the 13th day of July, 1787, for the government of the territory of the United States northwest of the river Ohio."

By the treaty with the French Republic, in 1803, more territory was added to the United States, all under the name of the Louisiana Territory; and by the act of 31st of October, 1803, provision was made for its temporary government. But the government was then so very temporary, and the territory so large, that it became expedient and necessary for congress, at its next session, to make some further regulation for the government of this vast domain. So an act, entitled "An act erecting Louisiana Territory into two territories, and providing for the temporary government thereof," was passed March 26, 1804.

By this act, all that portion of the country ceded by France to the United States under the name of Louisiana, which lies south of the Mississippi territory, and of an east and west line, to commence on the Mississippi river at the thirty-third degree of north latitude, and to extend west to the western boundary of the said cession, was constituted a territory of the United States, by the name of Orleans; and by the third section of this act the legislative powers were vested in the governor and 13 men, chosen by the president, styled the legislative council; and in this section these words are found: "The governor, by and with the advice and consent of said legislative council, or a majority of them, shall have power to modify, alter or repeal the laws which may be in force at the commencement of this act."

It is not necessary, nor is it our purpose, to inquire how far they may have modified, altered or repealed the laws which were then in force. We find, by the seventh section of this same law, a specification of the acts of congress which were declared to be in force for the "redress of civil wrongs and the punishment of crime." And also, in the eleventh section, these words: "The laws in force in the said territory at the commencement of this act, and not inconsistent with the provisions thereof, shall continue in force until altered, modified or repealed by the legislature."

There can be no doubt thus far that all the law which these territories yet had was that which they derived through the channels of congress, mediately or immediately — mediately by the acts of congress extended over them, specifically named and set forth; or immediately by the legislature thereof, whose powers were also specific.

By the same act the residue of the province of Louisiana was erected into a



territory by the name of the "district of Louisiana," of which the territory of Kansas is a part; and section 12 declares: "The executive power now vested in the governor of the Indiana Territory shall extend to and be exercised in the said district of Louisiana;" and in section 13 it is declared: "The laws in force in the said district of Louisiana at the commencement of this act, not inconsistent of any of the provisions thereof, shall continue in force until altered, modified or repealed by the governor and judges of the Indiana Territory as aforesaid."

To your committee it seems as clear as a sunbeam, that congress is always very careful to designate the particular laws by which the territories erected should be governed, and that no law should be in force or have effect, in any of these territories thus erected, except those expressly named and set forth. Or, in other words, no laws were deemed to have force and effect, within these territories except those clearly specified, as we find that the laws intended by congress to be in force in the territories thus erected are particularly described. For instance, when the territory of Indiana was organized, we find the act by which it was created, expressly declared that the laws provided by the ordinance of July, 1787, should extend over and be in force in said territory, and none other, except the acts of congress specifically mentioned; and after the treaty with France ceding to the United States all the territory by the name of Louisiana, we find several acts passed in relation thereto, pursuing the same course; for it is also therein expressly declared, in section 7, what acts of congress shall be in force and extend over both divisions of the same, together with a specific declaration that "the laws in force in the said territory at the commencement of this act, not inconsistent with the provisions thereof, shall continue in force until altered, modified," etc.

Thus we see, that from the organization of the great Northwestern Territory down to the time that the remaining portion of this vast and almost boundless territory was organized under the name of the territory of Missouri, congress, in every act organizing territorial governments, clearly and emphatically declared what particular laws should be in force therein—whether acts of congress or acts that the various legislatures of the same from time to time had passed. But in the organic act establishing the territories of Nebraska and Kansas we look in vain for any of these specifications; we look in vain for any words declaring the laws of any particular territory in force here; we look in vain for any clause by which a legal mind can conclude that congress designed that any laws, save and except the laws of the United States, not locally inapplicable, should be in force in the territory of Kansas (unless it be the territorial laws of the territory of Missouri), either expressed or implied. But, upon the contrary, we see everything (by comparing the organic act establishing the territories of Nebraska and Kansas with the other acts establishing territorial government) which warrants inevitable conclusion that congress intended that all the laws of the territory of Indiana, the laws of the territories of Orleans and Louisiana, should not have force and effect in this territory, as no provision in our organic act makes any other specification other than that extending the laws of the United States over this territory not locally inapplicable.

Having thus rid ourselves of the territorial laws of the territory of Indiana, the laws of the district of Louisiana, and the laws of the territory of Louisiana, we will proceed to inquire how far the laws of the territory of Missouri may be regarded as in force here.

It must be clear beyond a doubt (if the position hereinbefore taken be a cor-





rect one), that not even a single law made by virtue and in pursuance of the act of congress approved June 4, 1812, entitled "An act providing for the government of the territory of Missouri," can be in force in this territory; for we find the same (or nearly the same) provisions therein in regard to the extending of law over this territory that we have found in regard to the other territories herein named.

Although section 1 declares, "that the territory heretofore called Louisiana shall hereafter be called Missouri, and that the temporary government of the territory of Missouri shall be organized and administered in the manner hereinafter prescribed"; and although in the third section it is also declared that "the general assembly shall have power to make laws in all cases, both civil and criminal, for the good government of the people of the said territory;" and although it is further declared in section 16, "that the laws and regulations in force in the territory of Louisiana at the commencement of this act, and not inconsistent with the provisions thereof, shall continue in force," &c., still we cannot believe that congress, in its wisdom, designed that those laws should have any force or effect over this territory after the 30th day of May, 1854. And the reason to us is obvious; for had this been the design of the far-seeing statesman who is the father of the bill by which the territorial governments of Nebraska and Kansas were organized, and other statesmen equally wise and far-seeing, who discussed it in the halls of congress, the organic act, and the question would then have been at rest in the minds of organic act, and the question would have then been at rest in the minds of those who doubt. But inasmuch as that clause, so necessary, and continuously followed up in all other acts of a similar nature, has been omitted, we think the omission was deliberately intended, and that the design of the fathers of this glorious bill was to render inoperative all laws which had hitherto been in force, not only in Indiana, Orleans, and Louisiana, but also in the territory of Missouri.

Even should this position be untenable, we find from an examination of the territorial laws of Missouri so many repealing clauses that it would be wholly unsafe and uncertain to rely upon them for any effectual remedy for the "redress of civil wrongs or the punishment of crime."

We therefore, after mature deliberation and the examination time and our duties would allow, recommend the passage of an act extending the "Revised Statutes" of the state of Missouri, as revised in 1844 and 1845, over this territory, so far as they are not locally inapplicable, and so far as they do not conflict with the laws already passed by this legislative assembly, or so far as they may not conflict with laws which may yet be passed by this body. And we would further recommend (to remove all doubt) the passage of an act to repeal all laws whatsoever which may have been considered to have been in force in this territory on the 1st day of July, 1855.

All of which is most respectfully submitted.

WILLIAM G. MATHIAS, Chairman.

F. J. MARSHALL.

[House Journal 1855, p. 10.]



## VETO MESSAGE.

To the House of Representatives of the Territory of Kansas :

I return to your house, in which they originated, the bill entitled "An act to prevent the sale of intoxicating liquors, and games of chance, within one mile of the Shawnee manual labor school, in the territory of Kansas," and the bill entitled "An act to establish a ferry at the town of Atchison, in Kansas Territory," without my approval. I see nothing in the bills themselves to prevent my sanction of them, and my reasons for disapproval have been doubtless anticipated by you, as necessarily resulting from the opinions expressed in my message of the 6th instant.

The question is of the powers of the legislature, and whether the legislature is now in session at a place which can be recognized as a seat of government, where the business of legislation can be legally or legitimately carried on. The creation of the seat of government in any case by competent authority, carries with it a necessary and unavoidable implication, from the meaning and force of the term, that the laws which are to be passed for the government of the state or territory shall be there enacted, and therefore makes it the clear duty of the legislature to perform their functions at that place. It can have no other object or purpose, and we cannot for a moment suppose that the authority which creates a seat of government contemplated that all the acts and powers of government might be performed and exercised as well at any other place. It clearly means that the enactment of laws, which is the highest and most important function of governmental power, should be exercised at that place and no other.

This proposition is so plain that it will probably not be controverted, and its correctness seems to be admitted by the legislative assembly in the fact of the passage by them of an act constituting this the seat of government before they would remove here from the place at which they were convened. Were that act valid, and within the powers of the territorial legislature, the question could not arise. To its validity, however, I cannot give my assent, and I propose now to state my reasons for that opinion.

The whole territorial government is brought into existence by the act of congress of May 31, 1854, and to it we must look for the limit and extent of the legislative, judicial and executive powers. The twenty-second section provides "that the legislative power and authority of said territory shall be vested in the governor and legislative assembly," and then proceeds to declare how the assembly shall be constituted and the first assembly elected, and at the close we find the following language:

"The persons thus elected shall meet at such place and on such day as the governor shall appoint; but thereafter the time, place and manner of holding and conducting all elections by the people, and apportioning the representation in the several counties or districts to the council and house of representatives, according to the number of qualified voters, shall be prescribed by law, as well as the day of the commencement of the regular sessions of the legislative assembly."

It will thus be seen, that although congress gives to the legislature the power to determine the time when the assembly shall thereafter meet, they do not confer power to fix the place. We will see on further examination the reason for this, and that congress chose to retain and exercise this power themselves.



By the twenty-fourth section it is provided, "that the legislative power of said territory shall extend to all rightful subjects of legislation consistent with the constitution of the United States and the provision of this act."

By the thirty-first section it is provided, "that the seat of government of said territory is hereby located temporarily at Fort Leavenworth," and further provision is made for the occupation of buildings not needed for military purposes.

By the appropriation bill passed August 5, 1854, section 6, congress enacted, "that in the event that the secretary of war shall deem it inconsistent with the interests of the military service to furnish a sufficient portion of the military buildings at Fort Leavenworth for the use of the territorial government of Kansas, the sum of \$25,000 shall be, and in that contingency is hereby, appropriated for the erection of public buildings for the use of the legislature of the territory of Kansas, to be expended under the direction of the governor of said territory."

It is worthy of note here, although not precisely a legal argument upon the construction of these acts, that within a few days before the passage of the last-recited act congress refused to make this appropriation, coupled with a clause repealing the section which fixed the temporary seat of government at Fort Leavenworth. It is enough, however, to know that they did not repeal it. The appropriation was made, leaving that section in full force.

On the 3d day of March, 1855, congress made a further appropriation of \$25,000 for public buildings, with the proviso "that said money or any part thereof, or any portion of the money heretofore appropriated for this purpose, shall not be expended until the legislature of said territory shall have fixed by law the permanent seat of government."

This last enactment conclusively establishes two points: First, that the legislature had the power to fix the permanent seat of government, as contradistinguished from a temporary one: and, second, that no part of the appropriation is to be expended at the temporary seat of government, which congress persisted on keeping at Fort Leavenworth.

Thus stood the legislation of congress when the legislative assembly was convened. The executive was vested with power to designate the place where they should first meet. Congress had themselves fixed a temporary seat of first place of meeting, or in case a second legislature should convene before the permanent seat of government was fixed, and the legislature was authorized to fix a permanent seat of government, where the appropriations were to be expended.

The latter power they may at any time exercise, but the two former they clearly cannot, unless they have power to repeal and override an act of congress.

The only authority under which the legislative assembly are now sitting at the Shawnee manual labor school is an act of their own passed on the 6th inst., at the place where they were convened by the executive, entitled "An act to remove the seat of government temporarily to the Shawnee manual labor school, in the territory of Kansas."

At the place where they were first convened, the legislature could, undoubtedly, have fixed the "permanent" seat of government, where the appropriation could have been expended, and adjourned at once to such place; or, if they chose to delay acting upon the measure, they could in the meantime have adjourned the temporary seat of government which congress had established; but it is impossible for me to perceive how they can establish a temporary seat of government at a different place from that at which congress has said it shall be, without such a direct conflict as to render the legislative act utterly void.



We find in the organic act many instances of legislation which were intended only to be provisional, and intended to last only until the subjects to which they relate should pass into the hands of the legislature—such as the qualification of electors; times, places and regulations of elections; times and places of courts; defining of districts; appointments of officers, etc.—but in each of these cases the power to change the provisions of the organic act is expressly given, whilst in regard to the temporary seat of government it is not given.

Indeed, in view of the fact that congress has not included this in the provisional legislation; that in speaking of the day and place for all meetings of the legislature after the first, they give power to the legislature to fix the day but not the place; that the only power given to the legislature in reference to the seat of government is the power to fix the permanent place where the appropriation shall be expended, and the restriction of legislation to matters consistent with the organic act, all concur to prove that the act of the territorial legislature creating a temporary seat of government is unauthorized and void.

Did the legislature possess general powers, and not trammelled, as they are, by the restriction of consistency with the organic act, their power to change the seat of government at pleasure could not be doubted. As it is, if they can contravene the thirty-first section, I see no reason why they may not equally as well pass laws in conflict with any other provision which the bill contains.

It seems to be plain that the legislature is now in session, so far as the place is concerned, in contravention of the act of congress, and where they have no right to sit, and can make no valid legislation. Entertaining these views, I can give no sanction to any bill that may be passed; and if my reasons are not satisfactory to the legislative assembly, it follows that we must act independently of each other.

The necessary embarrassment consequent upon this difference of opinion between the legislative assembly and the executive will be of so grave a character, and so desirable to avoid, if possible, that I have most earnestly scrutinized the grounds of my opinion, and sought for all the arguments against it with diligent care and a willingness to be convinced; but I am constrained to say that reflection and examination only seem to rivet upon my mind more and more strongly the conviction of its correctness.

If I am right in these opinions, and our territory shall derive no fruits from the meeting of the present legislative assembly, I shall at least have the satisfaction of recollecting that I called the attention of the assembly to the point before they removed, and that the responsibility, therefore, rests not on the executive.

Shawnee Methodist Mission, July 21, 1855.

A. H. REEDER.

[House Journal, July 21, 1855, p. 67.]

## OPINION OF THE SUPREME COURT.

### LEGALITY OF THE SHAWNEE MISSION SESSION.

To the Honorable the Council and House of Representatives of the Territory of Kansas:

Your communication, through the medium of the attorney of the United States for the territory, was handed to the supreme court, at its session on the 30th ult., and being taken into consideration, it was determined by a majority of the court to reply to so much thereof as presents the question of your authority to enact the bill "providing for the temporary session of this assembly at the Shawnee manual labor school"; and the further one,





"whether the adjournment of this assembly to this place, in pursuance of such act, was legal?" In other words, the vital inquiry, whether you are a constitutional legislative assembly.

As to so much of your communication as is embraced in the succeeding clause, to wit., "whether it is competent for this assembly, if its present session be legal, to confer on the probate courts jurisdiction, civil and criminal, concurrent with the district courts," they determined that, as it presents a question touching the legality of a specific act of legislation, they would leave the solution of that, should it arise, to the ordinary course of judicial investigation.

In making the distinction, they have been controlled by the peculiar characteristics of the first inquiry. Looking as it so does to the constitutional existence of the legislative assembly, upon which rest interests of the most vital character, and of universal application to the well-being of our people, it has seemed to a majority of the members of the court that they should fail in the accomplishment of a leading purpose in their creation if, suffering themselves to be restrained by too nice considerations of technical delicacy, they should refrain from a direct response to your interrogatory.

In reaching this determination, they have been influenced in no small degree by their high appreciation of the constituent elements of your honorable bodies. Satisfied thoroughly that, in the great requisites of intelligence and public virtue, the legislative assembly of Kansas will compare favorably with similar bodies in the states of the union; and fully persuaded that, in propounding the inquiries, you have been influenced by an earnest desire to shape your legislation in strict conformity to the obligations of controlling law, the consideration of the preliminary question, whether a response should be made by us, was approached with a natural anxiety to find it consistent with a sense of official duty to do so. It is but justice to ourselves to add, that this motive was powerfully offset by an habitual reluctance to interpose, even upon solicitude, in any matter wherein it was known that coordinate branches of the territorial government entertained conflicting opinions. Immediately upon entering upon the inquiry, the immense magnitude of the interests involved arrested our thoughts, and forbade, in the most emphatic tones, a resort to the ordinary justification for silence, that the case presented was "*coram non judice.*"

It may be true that this is technically the fact; but we could not conceive ourselves justified in reposing upon this defense, when, meantime, that greatest of all evils, anarchy, might exist rampant upon our soil, fed and encouraged by the reckless and unprincipled, who might even invoke our very silence as an argument in maintenance of their destructive sentiments; and besides this, perhaps, draw hence inferences fatal to our independence, and, consequently, subversive to that confidence which we are most solicitous to maintain.

You will do us the justice to be assured that this apprehension has not its origin in a selfishness which regards our own reputation merely for its own sake, but in a deep anxiety for the public interests, which we feel to be largely dependent upon the estimate as well of the independence as of the uprightness and ability of those to whom are assigned the interpretation and administration of the laws.

We have felt the less hesitation in examining and responding to your questions, because there is much reason to doubt whether, under any circumstances, the difficulties involved in them might be presented to us judicially



for solution. These reasons for doubt are supposed to be found in the views of the supreme court of the United States, as expressed in the 5th Howard's Reports, 343, in the case of *Scott et al. vs. Jones*, in which the constitutional existence of the territorial legislature of Michigan was proposed to be brought into review.

Without attempting an elaborate examination of the points of that case, it is sufficient for our present purpose to say, that the whole tenor of the argument of that high tribunal is to demonstrate that the subject-matter of legislative bodies, and not the competency of their organization, forms the true and only topic of judicial revision. Should such an exigency arise as an unwarrantable attempt at legislation by any body wanting the necessary elements, say they, "if not situated within the territory of the union," it "would be a foreign affair, and not within the cognizance of the departments of this government, unless so interfering with its rights as to call for the political exercise of the executive or legislative authority over our foreign relations." Again, "such conduct by bodies situated within our limits, unless by states duly admitted into the union, would have to be reached either by the power of the union to put down insurrection, or by the ordinary penal laws of the states or territories, within which these bodies unlawfully organized are situated and acting"—language manifestly referring to the assumption of legislative power by self constituted and rebellious organizations.

Again, they speak in terms which admit of no question of their understanding of the relations of these departments of government when they say, "the judicial tribunals of the general government which acquiesce in the political organization that has been professing to pass statutes," etc.

After remarking, in addition, as to their recognition of such bodies as duly organized, and conceding their existence therefore as a state, and that their statutes must be treated as the statutes of any other state, within the meaning of the act of 1789, known as the judiciary act, they add; "And, if so, we must inquire only into the validity of their subject-matter, and not as to the new any more than the old states, ever suppose the question of their political competency or power to pass statutes at all was an inquiry intended to be placed under our consideration and decision," by the act above mentioned.

We could not but regard an attempt to evade the force of these views, by the suggestion that they were expressed particularly with reference to state organizations, and therefore not applicable to the position of a territorial legislature, as more resembling a quibble than an argument, unless, indeed, contrary to our full conviction, some difference in principle between the several organizations, applicable to the point in controversy, could be shown.

It would not only so partake of the appearance of a quibble, but, what is of more force, it would falsify the facts of the case, since the very question presented arose upon the legislation of a territory, and would inevitably have drawn from the august body which pronounced the decision such distinction, if, in their judgment, such distinction existed.

Having referred to this decision in maintenance of the propriety of responding in this inofficial manner to your inquiries, we will add, before dismissing it, that it is no less forcible to sustain the proposition that you are yourselves the judges, without appeal or revision, of whatever may be embraced in the manner and form of your organization, and that neither an objection to your place of session or of any other matter not embraced within the subject-matter of the operative provisions of your legislation can be called in question elsewhere.

We will but add to these reasons—satisfactory to ourselves, and, we trust, to



you—that we are gratified to find ourselves sustained, in a position altogether novel, in the course we have adopted, by precedent, to which, so far as we know, no objection has arisen; a precedent, too, which goes much farther than we have determined to go. A resolution of the legislature of Minnesota territory, propounding questions to the judges of the supreme court of that territory, was fully replied to by the judges. (See proceedings of the first session of the Minnesota legislature.)

Having determined to reply to the extent indicated, the nature of that reply next comes to be considered.

Upon this we have had no difficulty. We have not been able to discover any substantial objection to the constitutionality of the course of the legislative assembly. We could not see, in the change of the place of your session out of mere caprice, much that would be objectionable to good taste and to that spirit of deference to regularity and order which the people have a right as well as an inborn disposition to expect in those holding honorable positions; but we are forbidden by the highest considerations of respect and justice to suppose caprice to have governed your honorable body. To feel otherwise would be dereliction from the courtesy due to a department of government, as well as an unseemly departure from the analogy to the well-established principle of law, upon the recognition of which courts forbear to go behind the record when the judgment of a competent tribunal comes incidentally under their notice.

It is not for us to inquire what considerations did govern you; but to assume—the least that any respectable body can ask—that you had for your action reasons to yourselves most satisfactory and ample.

The questions presented for our consideration are: Whether the act of the legislative assembly declaring the Shawnee manual labor school the temporary seat of government is valid? And, whether your legislation at the last-mentioned place is legal?

They might be treated together, as really presenting the solitary inquiry: Whether your honorable body has a constitutional existence? But the latter branch of the inquiry demands a brief consideration distinct from the other.

It may be remarked, in reference to it, that its favorable solution may be shown, whatever might be the reply to the former, unless—which is by no means a certain proposition—no legislation can be obligatory promulgated elsewhere than at the seat of government.

Indeed, the contrary is shown to be the recognized rule, and as such has both been acted upon in the absence of express authority, and has, in the constitutions of the states, certainly in some, and perhaps generally, been recognized.

The removal of congress from Philadelphia to Lancaster, in 1777, upon the temporary reverses of the American arms in New Jersey, is an illustration of the former; while the sixteenth section of the second article of the constitution of Maryland is a demonstration of the latter.

We are but too apt to confound inherent principles with either constitutional or legislative requirements. It is usual to limit, by positive enactment, the exercise of the functions of the departments of government to the seat of government: a policy not only not questionable, but clearly laudable and wise. So, too, the residence of the chief executive officer is most commonly required to be there, yet it is not universally so. In Delaware, for example, and in Alabama, such is not the case. The act creating this territory does not require this of the governor: all that it does is to exact of him to “reside within said territory.” Nor does it contain a prohibition to legislate elsewhere than at the seat of government. Upon this point it is entirely silent.



You are the judges of the propriety and regularity of the mode of performing your duty. The object of your existence is the highest known to enlightened communities—the enactment of laws to govern the intercourse of society, and to control the action of its individual members. It would be to suspend the most overtowering interests upon too trivial considerations, if the vitality of your acts should be dependent upon mere points of regularity, and these to be determined by other tribunals, and that, too, by lifting the veil of motive, and prying into its hidden springs. If the principle of such an oversight and control were conceded, it would be an alarming abuse, if, upon so comparatively insignificant a point as the place of your deliberations, their whole efficacy should rest. However much it may seem to comport with the importance of legislative councils to be surrounded with the conveniences and comforts of tasteful and expensive buildings, reared by the munificence of government, and to have these located in the midst of a refined and intelligent population, these are, after all, the least of the elements of their usefulness. The primary purpose of your being is to promote, by the wisdom of your councils, the public welfare, and, whether surrounded by the appendages of even prodigal and profuse expenditures, or legislating under the genial shade of one of nature's forest monarchs—whether in the center of luxury and population, or in the stillness of a solitude unbroken save by the voice of patriotic earnestness in support of needful laws—is but of the utmost insignificance in comparison with the adaptation of your measures to the interests intrusted to your keeping.

If pestilence, therefore, shall invade the halls nobly wrought to correspond with the magnitude of your duties, we can see no reason why you should not, as did the parliament of Great Britain, to shun the desolation of the plague, leave Westminster, where, "since the days of the Plantagenets, the houses had constantly sat," but great reason why you should abandon these, if need be, for the solitude, to perform your labors; and if called to assemble in the solitude, where conveniences are not to be had for the advancement of your efforts, it is certainly no less true that you may and ought, as the congress of the revolution adjourned, indignantly, from Philadelphia to Princeton, N. J., about the close of that great struggle, to adjourn to such other place as will furnish these.

It would be faithlessness to the high trust assumed to dissipate the time and energy so necessary in a limited session in combating and overcoming inconveniences instead of seeking a place where, conveniences being provided, these may be devoted to the legitimate objects of your organization. The first alternative, if adopted, would present a lamentable example of the truth of the old legal maxim, *qui haeret in litera, haeret in cortice*—"who sticks to the letter sticks to the bark;" an idea not dissimilar from that expressed in "grasping at the shadow and losing the substance," in "straining at a gnat and swallowing a camel."

If left to seek, in general principles, a response to your question, we should feel no hesitation in resting the justification of your position upon these views, and invoking to our further support the long-established maxim, *de minimus non curat lex*, "the law disregards trifles," should feel that position to be impregnable. It is due to ourselves to add that it would be an unjust interference, from these suggestions, to suppose that we regard the establishment of seats of government as a matter of indifference. On the contrary, they are in entire consonance with the highest appreciation of the advantages and necessity of such establishment. Suffice this to guard against misapprehension without departing from the line of argument to illustrate the importance of fixed places for govern-





mental purposes, and the propriety, in general, of there performing legislative functions.

We are not, however, confined to general principles, but may with confidence turn to the provisions of the organic act of 1854, chapter 59, the act of 1855, chapter 267, section 6, and the further act of 1855, chapter 67, in discussing the question of your right to locate, temporarily, the seat of government of the territory, as we now propose to do.

The twenty-fourth section of the first-named act declares that "the legislative power of the territory shall extend to all rightful subjects of legislation consistent with the constitution of the United States and the provisions of this act." Some limitations follow, but do not affect the question under review.

It is supposed that, but for the thirty-first section, no doubt would exist, but that under the twenty-fourth, the legislative assembly would have a clear right to designate the seat of government, either temporarily or permanently, or that, if any ground of doubt could be found, it would be in that clause of the twenty-second section which provides that "the persons thus elected to the legislative assembly shall meet at such place and on such day as the governor shall appoint"; but thereafter the time, place and manner of holding and conducting all elections by the people "shall be prescribed by law, as well as the day of the commencement of the regular sessions of the legislative assembly."

For the sake of simplicity and clearness, the twenty-fourth section will be examined first, in connection with the thirty-first, as also with the appropriations of section 6 of chapter 267, 1854, and of 1855, and afterwards in connection with the twenty-second section of the original act.

The language of the twenty-fourth section has been already quoted; that of the thirty-first is in the following words: "That the seat of government of said territory is hereby located temporarily at Fort Leavenworth; and that such portion of the public buildings as may not be actually used and needed for military purposes may be occupied and used, under the direction of the governor and legislative assembly, for such public purposes as may be required under the provisions of this act."

In the construction of this section, it is most obvious that the use of the word "temporarily" must demand particular attention. This will be true, if to be construed independently of any other; it is much more so when to be construed along with others, and when a conflict is to be avoided.

If omitted, or if substituted by the word "permanently," an entirely different phase would be given to the section. But the word "temporarily" does occur. Why was it inserted? This question will be answered by the solution of another: Did Congress intend to designate a seat of government until, by its own further action in the premises, a permanent one should be established, or another temporary one pointed out? or was it a purpose of Congress to designate such seat of government to provide for exigencies that might arise before the session of the legislative assembly, leaving it to that body, as one of its appropriate rights, as of all similar assemblages, unless restrained by direct prohibition, either to continue there, after its convocation, if convenient to the public interest, or to designate some other, since it had accomplished the object of its temporary creation? To this question, it has seemed to us, there should be no hesitation in making a reply. The very term used admits the existence of a right somewhere to change the place. Why "temporarily," if no competent power exists to alter and change it? Where rests that power, in the absence of a prohibition, if not in the body to assemble



for legislative purposes in the territory, and having intrusted to it the great concern of preserving and advancing the welfare of a rapidly populating country—a body which, far beyond Congress, has the means of judging where best, for the attainment of these ends, they shall hold their sessions.

Not only elementary writers, but judicial expounders of the law, have uniformly regarded the object to be attained by a legislative act as all-important to aid in its exposition.

But here not only is there no prohibition, but a distinct authority, in the language of the twenty-fourth section, to legislate on this subject.

This can only be denied by asserting, contrary both to precedent and principle, that the location of a seat of government is not a "rightful subject of legislation." We say, contrary to precedent and principle, because both have been most emphatically affirmed by the highest legislative authority in this country, and, from 1790 to this day, acquiesced in the highest judicial as well as executive authority of the federal government.

A reference to the act of Congress of 1790, chapter 28, and to the history of the country from that period to this, settles, we think, this proposition beyond controversy. In appealing to the history of the times, we have the authority of the judicial tribunal already quoted. (3 Howard, p. 1.) In asking the sanction of the acquiescence of the departments of government, it would be purely superfluous to cite authority, when it is remembered that this is the very foundation of that large system known as the common law.

The act of 1790, by its fifth section, locates the seat of government at Philadelphia, until the first day of December, 1800 (thus temporarily), and by its sixth section locates it permanently at the city of Washington; not eo nomine, but at "the district and place aforesaid," which, by the first section, is described as "a district of territory not exceeding 10 miles square, to be located as hereafter directed, on the river Potomac," a district since and now known as the District of Columbia, and the particular place since and now the city of Washington. It is a confirmation of this view, rather than an object, that the constitution of the United States, sec. 8, art. 1, confers the right of "exclusive legislation," "over such district, etc., as may, by cession of particular states and acceptance of congress, become the seat of government of the United States," etc.; because it will be observed that the grant of power here is to "exercise legislation," and not to select a seat of government—this latter being, really, by the phraseology used, merely acknowledged as a legitimate exercise of an indispensable power. See Story's Commentaries upon this section, book 3, sec. 1211.

Assuming then, that the location of a seat of government, temporarily or permanently, is a "rightful subject of legislation," the argument becomes conclusive that the true exposition of this section confers ample authority for such an exercise of power as that in question, while the use of the word "temporarily", in the thirty-first section, leaves the question entirely free from the embarrassment of a supposed prohibition.

Were it possible, however, that these views fall short of concluding the question, it is only needful to pursue the legislation of congress a step or two further, to discover a most distinct exposition of that body of its own interpretation of the subject.

By section 6, chapter 267, of the statutes of the same session—1854—an appropriation was made of \$25,000, "for the erection of public buildings for the use of the legislature of the territory of Kansas," upon terms therein mentioned. This provision is too well known to need a full recital, the more



especially as it referred to rather an illustration of the section next cited, than as of itself illustrative of the point in discussion.

It may be observed in passing, that, notwithstanding the insufficiency of this section to accomplish the purpose, more especially when the history of its passage, after a failure of a more direct effort at repeal is known, it was pretty widely thought, for some months after the promulgation of the establishment of the territorial authority, that this had, in fact, accomplished a repeal of the thirty-first section of the organic act, which is now, strangely enough by those entertaining this opinion, supposed to be in full force, despite not only this section, but the act of 1855, ch. 167, and your own act at the present session.

Tracing the legislation of congress a step further, we see that at their last session, by chapter 167, a moment since mentioned, there is a further appropriation of \$25,000; but with this very material proviso, that neither this sum nor the \$25,000 heretofore appropriated, shall be expended "until the legislature of said territory shall have fixed by law the permanent seat of government." It is to this statute we ask attention, as affirming the construction given to the act of 1854, ch. 59, secs. 24 and 31.

It will be observed that there is no grant of power by this act of 1855, ch. 167, to locate the permanent seat of government.

The manifest meaning of the language used is a mere recognition of that power as an already existing one. It is a prohibition of the expenditure of the moneys devoted to the use of the territory until such time as this admitted power shall have been exercised, for the obvious reason that congress did not intend these sums or any portion of them to be expended for temporary buildings.

The plain conclusion from this view of the act is, that congress, entertaining no doubt of the right of the legislative assembly to locate temporarily the seat of government, thus expounds its own understanding of its previous enactments, *in pari materia*; while the further inevitable inference follows, that the inferior right to locate the seat of government temporarily resides in the same body. For authority for this argument, see 7 B. & C., p. 99; 6 B. & C., p. 454, and 3 Howard, 556.

For support of the concluding inference, the well-known rule of law, that the greater embraces the less, will be recognized as both applicable and sufficient. See 6 Wheat., p. 204, and 14th volume East's Rep.—the famous case of *Sir Francis Burdette vs. the Speaker of the House of Commons*. "What is clearly implied by a statute is as much a part of it as if expressed in words." *Mo. Rep.*, vol. 3, 264.

The eighth section of the first article of the constitution of the United States, and the subsequent action of Congress under it, to which reference has been already made for another purpose, are even more forcible in confirmation of these reflections. If the construction then given it be correct, sustained, as we have shown it to be, by high authority, that the right to locate a seat of government is assumed and not granted by its language, no further doubt can exist of the existence of a similar power in your case, and of the truth of the construction given by us to the acts and sections quoted; if it be not the true construction, but is to be regarded as a grant of power, and as the grant under which Congress subsequently enacted the act of 1790, then it becomes not less influential in defense of the inferential power to locate the seat of government temporarily, which we have claimed under the statute of 1855, ch. 167. If not so, whence the power to do what Congress, by the fifth section of this statute



did, to wit: locate, from that period to 1800, the seat of government at Philadelphia—not certainly under the constitutional grant, for that speaks of only such district “as may, by cession of particular states and the acceptance of Congress, become the seat of government of the United States”—language gratified by what occurred in reference to the district of Columbia, and the city of Washington, but never by any transaction in regard to the city of Philadelphia. Hence the location thereof at the last-named place, assuming it to have been by authority at all, was by one following necessarily from the greater authority claimed by virtue of the constitution.

Pretracted as this opinion has already become, there is still another aspect in which the subject must be viewed.

Objections to these conclusions may be supposed to be found in the clause of the twenty-second section heretofore quoted, “the persons thus elected shall assemble,” &c.

The point of objection can scarcely be the first branch of the clause, which says that they “shall assemble at such place and on such day as the governor shall appoint.”

There are two views in which this part of the section may be presented, neither of which would affect the rightfulness of your acting, however one might produce question of the legality of the call, as to “place,” under which you assembled.

The first is, whether the authority to designate the place was not subservient to the thirty-first section establishing, temporarily, the seat of government at Fort Leavenworth; and if so, whether its true construction would not have been that it meant some particular place at that fort, and not any place outside of that. Assuming that no subsequent legislation of Congress had repealed the thirty-first section, and conceding, what is distinctly implied in the objections to your act, that the only place for legislation is the seat of government, this construction would follow irresistibly, because it would be the only construction that would leave every part of the statute upon this subject to operate. That in the construction of statutes this rule prevails universally, is too well settled to be controverted. 5 Har. & John., p. 26.

No particular stress is intended to be laid upon this view, as it does not relate to your action.

The other view of it is, that it has been perfectly gratified by your assembling at the time and place pointed out by the proclamation of the governor, without question of the right to call you together there and then. To contend that it exacts more, and that you were required by it not only so to meet, but there to remain, can only be successfully done by interpolating words which the wisdom of Congress did not see fit to insert. It would be but to press to a little greater extreme, without a difference in the principle, the severity of this claim, if it should be contended that, having assembled, you had no right to adjourn until your session was finally closed, there being no recognition, by any language there found, of a right to reassemble after adjournment.

Whatever argument entitled to particular consideration is derived from this section, in derogation of your action, must be sought for not in this language, which, as we have shown, has been literally gratified, but in the succeeding words, “the day of the commencement of the regular sessions of the legislative assembly” shall be prescribed by law. This may be considered as either imposing an injunction, or as vesting an authority. If the former, no inference unfavorable to the affirmance of your act can be drawn. They would but mean to impose as a duty what would otherwise have been left to your discre-





tion, and to require you to fix the period of commencement of future sessions, instead of leaving this to the governor, as Congress had done, for convenience as to the first session.

Supposing the meaning to be a delegation of power, an argument might be presented not totally destitute of a semblance of force, in the absence of any other provision touching the legislative authority of the territory, and illustrative of the intention of Congress.

It would derive this force from a principle, which has its advocates, that the enumeration of particular, excludes more general grants of power—one, however, by no means conceded; but while maintained with earnestness by some, is denied with confidence by others; amongst the latter of whom is prominent one of the most distinguished jurists of this country, and the peer of the most famed of any other. Story's Com., B. 3, sec. 842.

It is not necessary that we should deny it. Its recognition would not militate against our views, since its most unequalled concession would be restricted by an admitted qualification, that it is only operative in the absence of anything to show a different intention, as well as by rule already announced; that rule is, that all statutes or parts thereof, relating to the same subject-matter, must be considered together, and so construed as to give to every part, if practicable, its effect. To assume, therefore, upon this principle, a negation of your power to do anything beyond the fixing of the time of your future regular sessions, would be without authority of the principle itself, because it would be to disregard alike the twenty-fourth section confirming legislative power, as well as the act of 1855, ch. 167. It would be first to adopt a questionable principle, and then to claim its service under circumstances in which it is totally inapplicable.

It is only necessary, in conclusion, to refer to another part of section 24 of the organic act, to show that the want of concurrence of the governor presents no objection to the efficacy of the acts of the legislative assembly, two-thirds of the members of each of its constituent bodies concurring therein.

S. D. LECOMPTE,  
RUSH ELMORE.

I fully concur in the foregoing opinion, and refrain from saying a word on a subject so well discussed.

A. J. ISACKS.

[Council Journal, 1855, July 30, apx. pp. 1 and 2.]

---

#### SUPREME JUDGES—TENURE OF OFFICE.

On motion of Mr. Strickler, the rules were suspended, whereupon he offered the following resolution:

Be it resolved by the Council, the House of Representatives concurring therein, that the constitution of the United States, and the spirit and genius of our government, contemplate that the judiciary shall be and is free and independent of the control and supervision of the President or the appointing power.

That the act known as the Nebraska and Kansas bill, approved the 30th May, 1854, clearly defines the tenure of the office of the judges of the supreme court of the territory of Kansas for the period of four years, and until their successors shall be appointed and qualified.

That the tenure of the office of the judges being thus fixed by law, the President has not the power or the right to remove at his will or pleasure, and that an attempt so to do is, in the opinion of this legislature, a violation



of law; and that it is the imperative duty of the legislative department of this territory, and of all good citizens, to resist this flagrant usurpation of power, coming from whatever quarter it may.

The resolution was read the first time, rules suspended, read a second time, and adopted.

[Council Journal, Aug. 20, 1855, p. 187.]

### MESSAGE OF ACTING GOVERNOR DANIEL WOODSON.

Executive Department, August 24, 1855.

To the Honorable the House of Representatives of the Territory of Kansas:

I feel it to be my duty to return to your house, in which it originated, the bill entitled "An act to provide for paying the clerks of the present legislative assembly," with my objections. I am unable to give the bill my official sanction, because, in my opinion, every section of it violates the provisions of the act of Congress entitled "An act to organize the territories of Nebraska and Kansas."

The first section provides that the secretary of the territory "be and he is hereby authorized to pay to the engrossing clerks, enrolling clerks of the two houses, also to the second assistant clerk of the house, the amount of pay due them at the rate of \$3 per day from the day of their election or appointment"; and the second section provides that "the secretary aforesaid shall pay to J. M. Fox, or his order, the amount due him as engrossing clerk of the house from the day of his appointment to the day of his resignation, inclusive, at the per diem above stated; and also to Rev. John T. Peery, chaplain for the two houses, at the rate of \$3 per day from the day of his appointment."

These provisions seem to me to be in clear violation of the thirtieth section of our organic act, which, after prescribing the per diem and mileage of the members of the legislative assembly, and an additional compensation for the presiding officers of each house, provides that "a chief clerk, one assistant clerk, a sergeant-at-arms, and doorkeeper, may be chosen for each house, and the chief clerk shall receive \$4 per day, and the said other officers \$3 per day, during the session of the legislative assembly; but no other officer shall be paid by the United States." Here is a positive prohibition, from which it seems to me there can be no escape, for the secretary to pay any other officers of the assembly, except the chief clerk, one assistant clerk, a sergeant-at-arms, and a doorkeeper for each house.

The third section provides that "the committee on accounts of the house in which the said officers are engaged shall certify to the said secretary the amount due them for services, and the said certificate shall be sufficient voucher for the said secretary for the payment of the same."

This provision seems also to be in conflict with the thirtieth section of the organic act of the territory, which provides that there shall be appropriated annually a sufficient sum, to be expended by the secretary of the territory, and upon an estimate to be made by the secretary of the treasury of the United States, to defray the expenses of the legislative assembly, the printing of the laws, and other incidental expenses; and the governor and secretary of the territory shall, in the disbursement of all moneys intrusted to them, be governed solely by the instructions of the secretary of the treasury of the United States, and shall semiannually account to the said secretary for the manner in which the aforesaid moneys shall have been expended; and no expenditures shall be made by said legislative assembly for objects not



specially authorized by the acts of Congress making the appropriation, nor beyond the sums thus appropriated for such objects.

Here, it will be observed, the secretary of the territory is required, in the disbursements of all moneys intrusted to him, to be governed solely by the instructions of the secretary of the treasury of the United States, to whom he is also required to account for the manner in which the aforesaid moneys shall have been expended, and not the legislative assembly of the territory, as the third section of the bill now under consideration would seem to imply.

It may be contended that as the organic act expressly provides that the fund to be expended by the secretary of the territory is avowedly for the purpose of defraying the expenses of the legislative assembly, the printing of the laws, and other incidental expenses, therefore it is competent that a portion of it should be applied to the payment of the chaplain of the two houses, the engrossing and enrolling clerks, and the second assistant clerk of the house of representatives, as expenses necessarily incidental to the legislative assembly. However plausible, and perhaps conclusive, this view might be in the absence of any clause in the organic act forbidding the payment of such officers, it loses all its force when it is recollected that in the thirtieth section, after providing for the election and compensation of a chief clerk, one assistant clerk, a doorkeeper, and sergeant-at-arms, for each house of the legislative assembly, the organic act declares most emphatically, that "no other officer shall be paid by the United States"; thus leaving the inference, that if other officers shall be needed and appointed by the legislature, provisions should be made for their payment out of the territorial treasury, and not out of the legislative fund, which, as before stated, is required to be expended solely under the instructions of the secretary of the treasury of the United States.

Respectfully,

DANIEL WOODSON, Acting Governor.

[H. J. 1855, p. 339.]

#### MESSAGE OF ACTING GOVERNOR DANIEL WOODSON.

Executive Department, August 24, 1855.

Joseph C. Anderson, Esq., Chairman of the Committee on Elections, House of Representatives:

Sir—in reply to the resolution of the house of representatives, requiring the committee on elections to inquire of the governor or secretary of the territory whether Samuel D. Houston, a member of the house, has resigned his seat, I have the honor to state that, in a communication addressed to the governor, on the 23d of July, and filed in the executive office on the 24th of the same month, Mr. Houston resigned his seat as a member of the house of representatives, and assigned his reasons at length therefor.

The communication is herewith inclosed, for the further information of the committee. Respectfully,

DANIEL WOODSON, Acting Governor.

[H. J., 1855, p. 317.]

Be it resolved by the House of Representatives, the council concurring therein, That the governor of the territory of Kansas be and he is hereby instructed to call upon the general government, or the proper department, for the military arms heretofore appropriated by the congress of the United States for the use of this territory; and that the governor of this territory



be instructed to memorialize the Congress of the United States for an appropriation of 1,000 rifles, suitable for mounted riflemen, together with the patent-right to the minie ball, for the use of the military of this territory.

The resolution was read the first time, rule suspended, read a second time, and adopted.

[C. J. Aug. 30, 1855, p. 251.]

## GOVERNOR REEDER'S LAND PURCHASES.

### GOVERNOR REEDER TO COMMISSIONER MANYPENNY.

To G. W. Manypenny, Commissioner of Indian Affairs: Sir—On the 10th of January last, four contracts made with S. W. Johnston, for the sale of four tracts of land in this territory, which had been granted to half-breed Kansas Indians, were submitted to you as the head of the Indian bureau for report thereon, with memorials of the reserves, praying that the contracts might be confirmed and they allowed to make the deeds. These contracts were, for convenience sake, made in the name of Judge Johnston, but it was well understood that Judge Elmore, Colonel Isacks and myself were equally interested. The grantors were Joseph James, Louis Papin and wife, Francis Aubry and wife, and Moses Belnard and wife.

In your report to the President of January 15th you recommended that these contracts be not confirmed; you allude to them as "disreputable attempts of certain official functionaries to speculate in these lands"; you characterize them as "having a demoralizing tendency upon the inhabitants of the territory, both Indians and whites"; you state that "these purchases are the result of a systematic plan to forestall competition in the purchase and monopoly, at low prices, of these reserves"; you stigmatize them as marked by "indelicacy and impropriety"; you undertake to quote from and indorse as "entitled to the fullest credit" a letter, in which it is said that the grantors have been "cheated," and, at the close of your report, you say that they "disclose a condition of things among the federal officers which, if not rebuked, must soon produce a state of demoralization in the territory, the effects of which will be as lamentable as the acts themselves are disgraceful."

This report of yours you have given to the public in the shape of a congressional document, under a resolution of the house of representatives, calling on your department for information, which resolution I have reason to believe was offered by your procurement. Under other circumstances the law and the logic of your report would make a beautiful and amusing theme, but matters of graver import exclude the discussion. You have thus raised an issue between yourself on the one hand, and myself and three of the territorial officers on the other, which must be settled, not in a corner, but in the full blaze of day and before the whole public; and it is no less grave a question than, whether on the one hand we are dishonest, dishonorable men, guilty of revolting fraud, or whether, on the other, you are a vile and unscrupulous slanderer, who does not recognize the binding obligations of truth and justice, or the sacredness of private character. You have publicly and deliberately asserted the one side of that issue, and I now as deliberately and publicly assert the other, and before I am done with you, sir, I intend to do with my assertion what you have not attempted to do, and cannot do with yours—establish it by competent proof.

A controversy of this kind is, to every man of well regulated mind and delicacy of feeling, a most distasteful occupation—to the innocent man who





does not repel it with defiant indignation, it is an imputation of base cowardice; to the man who gratuitously and basely provokes it, it is the uneffaceable brand of injustice, brutality and falsehood. That you have been in this business only the credulous tool of other men who have used you to traduce me, cannot alter the course which my reputation and self-respect require me to pursue. If for their own purposes they have duped you into a difficulty from which you cannot be extricated, it is no concern of mine. I am equally bound to defend my reputation against your ferocious assault, whether that ferocity is a result of stupidity or malice.

As a set-off to your sweeping charges of fraud, I will, before coming to the main object of this letter, state a few facts which, for the present, I rest on my own assertion. First, however, I allege, what I suppose no sensible man will deny, that an individual, by accepting a public office, does not forfeit his right to buy lands and make profit off them if he can, provided the vendor is fully competent to manage his own affairs and make his own bargains, and no fraud, deceit or misrepresentation is practiced upon him. The man who denies this proposition I shall not attempt to convince. He is welcome to believe what he pleases, and I shall undertake no such Quixotic task as to supply his deficiencies of common sense.

With this preface, I assert that these vendors whom you have probably led the public to regard as wild, untutored savages, are, in fact, as competent to manage their own affairs as you or I. Louis Papin is a white man—a shrewd and intelligent Frenchman, who speaks the French and English well, is quite at home in all the ordinary transactions of life, and so far from being an Indian that he has not the slightest admixture of Indian blood, and cannot speak the language. Aubrey is precisely the same, and no more of an Indian than yourself. Their wives are the daughters of Louis Gondil, a French trader, and his Indian wife—quite as intelligent, as their parentage and station would indicate, and with whom the French is their daily and domestic language. Joseph James is the son of a white father and Indian mother, and, with his brother, the United States interpreter, is among the most intelligent of his tribe. He (as well as Papin, Belnard and Aubrey) follows, on a moderate scale, farming and raising stock, buying and selling, when necessary; speaks English, Indian, and I think some French, and is quite as keen and shrewd in his bargains as though he were a full-blooded white man, instead of a half-breed. His contract with us was made after several days' reflection, and a full consultation with his brother, the interpreter. Belnard is a Frenchman who speaks the French and English; is an intelligent man, fully competent to all the ordinary business of life, and with not the slightest mixture of Indian blood, or any knowledge of the language. His wife, Adele, is a half-breed daughter of Clement Lasette, a French trader; has all the manners and habits of a white, is acute and intelligent, and converses well in probably two more languages than yourself. Indeed, if I were allowed to venture an opinion, I should say that Mr. and Mrs. Belnard are quite as competent to superintend your bargains as you or your agent are to superintend theirs. The prices fixed by all of them were simply accepted by us, and are four- and five-fold the amount which, in your treaty with the Shawnees, you had just before agreed to pay for better lands; and I have yet to learn that code of morality which considers the Indian fairly paid for choice lands at 60 cents an acre, by the commissioner of Indian affairs, and is shocked at the injury inflicted on a white man with half-breed wife, when an individual pays him \$3.



That these lands could have been sold for a little more had they been hawked about in the market, efforts made to get purchases, and the sale delayed till the country filled up, is very probable; but that proves nothing, and is common to all contracts.

The prices were more than we had intended to give—more than had ever been offered before, although it was generally known that the vendors were anxious to sell—were fixed by the owners themselves, after consultation with each other and their friends, and were all that any man could afford to give at that time to make it a desirable investment. Three of the vendors, being white men, could have preempted quite as good land at \$1.25 per acre, and intend, on consummation of those agreements to do so. No approach to fraud, deceit or misrepresentation was practiced upon them. The contracts were to have no effect, nor any possession taken, till ratified by the government, and the purchase-money was to be paid in cash when the deeds were made.

But to return to the purpose of this letter; my colleagues are absent from the territory, and I cheerfully assume this defense upon myself. Your report on these contracts makes, as I have shown, fierce charges of fraud. If true, I am a dishonest man; if false, you are a slanderer. One of us, then, disgraces the office he holds, and it is time to know which is the man. In view of this I propose to you, sir, a compact, that, if you shall, before the first day of October next, make good these charges to the satisfaction of the President, he shall at once remove me from office; and if you fail, the same penalty shall be meted out to you. You have sown your gratuitous, inexcusable calumny broadcast over the union, and now I solicit, I challenge, I defy you to this test. If there is a spark of manliness in your composition, you will not shrink from it. I desire to goad you to its acceptance. Office, in my estimation, is of little value—reputation is priceless; and my only fear that you will decline this offer is based upon the cogent evidence that your estimate of these commodities is in an inverse ratio to mine.

I shall make this letter public, and await your early reply, addressed to Easton, Pa., hoping it will be a categorical, distinct and positive acceptance or rejection of my proposal, without any evasion of the point or creation of new issues. I will make no other issue, and enter into no discussion with you, until this is disposed of, and your reply, if not published by yourself, will be published by me. Respectfully, etc.,

A. H. REEDER.

[H. of F. May 5, 1855.—From the "Missouri Republican."]

W. L. MARCY, ESQ., TO GOVERNOR REEDER.

Department of State, Washington, June 11, '55.

Sir: I am directed by the President to inform you that with the developments before him in reference to purchase of Kansas half-breed reservations made by you in the territory of Kansas, and in which, as you state, Judges Johnston and Elmore, of the court of the territory, and Mr. Isacks, the district attorney, participated; in reference also to other speculations by you of lands in the territory, apparently in violation of acts of Congress and of regulations of the department, he feels embarrassed to see how, consistently with his convictions of duty, he can allow the present official relation to the territory of yourself or of either of the other gentlemen named, to continue, unless



the impressions which now rest upon his mind shall be removed by satisfactory explanations.

The President, however, will be glad to receive and consider any explanations which you may desire to make in regard to the character and extent of the transaction referred to, and particularly the matters spoken of in the letter of G. W. Clarke, Indian agent, dated May 8, 1855, and addressed to the superintendent of Indian affairs for Kansas, a copy of which was forwarded to you at Easton, on the 5th inst. I am, sir, very respectfully, your obedient servant,

W. L. MARCY.

Hon. A. H. Reeder, care of John Cochran, surveyor, &c., New York.

GOVERNOR REEDER TO W. L. MARCY, ESQ.

New York, June 13, 1855.

Sir: Your letter of the 11th, postmarked the 12th, was handed me between 10 and 11 o'clock last night, after I had made all my arrangements to leave for Kansas at 6 o'clock this morning. I could not remain at home to reply fully to the communication without gross neglect of my official duties, and it is equally clear that I cannot give to the grave matters it contains the deliberate reply which they require while I am en route day and night. Nothing is left me, therefore, but to proceed to the territory, and reply to your communication there. I wrote to the President yesterday from Easton, and must express my regret that your communication was not made at an earlier day. Very respectfully, your obedient servant,

A. H. REEDER.

Hon. W. L. Marcy, Secretary of State, Washington.

ATTORNEY-GENERAL CUSHING TO THE ATTORNEY AND ASSOCIATE JUSTICES OF KANSAS TERRITORY.

Attorney-General's Office, June 14, 1855.

Sir: I am directed by the President to inform you, that in a letter from Governor Reeder, of the territory of Kansas, to the commissioner of Indian affairs, to which his attention has been called by a letter of G. W. Clarke, Indian agent, addressed to the superintendent of Indian affairs for Kansas, of the 8th ult., Gov. Reeder makes the following observation regarding certain contracts for the purchase of lands of Kansas half-breed reserves:

"These contracts were, for convenience sake, made in the name of Judge Johnston, although it was well understood that Judge Elmore, Colonel Isacks and myself were equally interested."

These transactions being apparently in violation of acts of Congress and of regulations of the department, the president feels embarrassed to see how, consistently with his convictions of duty, he can allow the present official relation to the territory, of yourself or of either of the other gentlemen named, to continue, unless the impressions which now rest upon his mind shall be removed by satisfactory explanations.

He will, however, be glad to receive and consider any explanation which you may desire to make in regard to character and extent of the transactions in question. I have the honor to be, respectfully,

C. CUSHING.

GOVERNOR REEDER'S LETTER TO SECRETARY MARCY.

Shawnee Mission, K. T., June 26, 1855.

Hon. W. L. Marcy, Secretary of State, Washington: Sir—As promised in my brief note of the 13th inst., from New York, I avail myself of the first opportunity to reply to your letter of the 12th. That letter mentions, as



causes of complaint against me, in the opinion of the President, "Purchases of Kansas half-breed reservations, made by me in the territory of Kansas," and also "other speculations in lands of the territory of Kansas, apparently in violation of acts of Congress and of regulations of the departments"; and at the same time invites any explanation which I may desire to give in regard to the character and extent of the transactions above referred to, and particularly the matters spoken of in the letter of G. W. Clarke, Indian agent, dated May 8, 1855.

I am thus put upon my defense to two separate charges: First, the purchase of half-breed Kansas lands; and secondly, other speculations in lands of the territory, apparently in violation of acts of Congress and regulations of the departments.

The very general manner in which these charges are stated, the entire absence of any specification on which to make a point or raise an issue and the omission to state in what particular the President sees any wrong to have been committed, and what act of Congress or regulation of the department has been violated, are matters of regret and embarrassment to me; because they preclude confidence in the pertinence of my reply. I need not inform so eminent a jurist as yourself how impossible it is, in matters of crimination and defense, to attain justice and truth without a distinct and unequivocal specification of the charge on the one side, and a direct, full and pointed answer to it, on the other. In the absence of these, parties may wander in side-issues, departures, evasions, and uncertainties, without ever reaching a conclusion; and I, therefore, with the highest respect, take the liberty of calling your attention to this feature of your letter as a full apology for myself, in case I shall engage in the discussion of matters which the President may not consider in issue, or shall not be sufficiently full and certain in speaking of the point in which he thinks he sees the wrong.

In relation to the first charge, of purchase of half-breed Kansas lands. I have to say that I have purchased no such lands at all. With others, I have only agreed to purchase them in case the contemplated purchase shall receive the sanction and approbation of the President; and this, in my opinion, is a material and substantial difference. Until the President, by his approbation, and the vendors by the execution of their deeds, consummate the contract, it precludes us from any interest in the land, and even the privilege of entering upon, or possessing it. Vendors and vendees, until then, preserve all their rights unchanged and unaffected; and if the President shall not assent to the contracts, it will be the same as though they had never been made. If there is any wrong in the matter, it is not a wrong committed, but at most only a wrong attempted, and in the face of all probability, a wrong which we expect to be sanctioned by the President.

The papers were submitted by us to the President on the — day of January last for his approval, and as the government has been, for years past, in the habit of approving similar contracts, we did not apprehend any difficulty whatever. They were referred to the Indian bureau, and the commissioner reported adversely to the confirmation, alleging that the vendors had no right to sell; that there was no evidence of their competency to manage their own affairs; that there was no evidence produced by us of the value of the land; that the transaction had not been brought to the notice of the Indian agent; that no certificate was presented to the President to prove the official character of an officer whom the President himself had appointed; and that the purchase-money (which was to be paid in cash when the deed





was made) had not been sufficiently secured; and that in the opinion of the commissioner, the contract was demoralizing and disgraceful. Whether the last reason was based upon the assumption of actual fraud in the contract, or upon the commissioner's idea that public officers have no right to purchase, I confess I have never been able, after careful examination of the report, to discover.

Upon receiving this report, the President on the — day of January, without rejection or approval, ordered the papers to be returned, doubtless with a view to enable us to supply the formal deficiencies demanded by business regulations of the department of which we had been ignorant. We inferred, of course, that the last reason above was not concurred in by the President, or he would have at once disapproved the contracts and terminated the whole proceeding.

We proceeded to supply the formal deficiencies, and, in the beginning of May last, again laid the papers before the President, with an argument and brief from myself, to prove from the opinions of attorneys-general and the decisions of the supreme court that the vendors had a right to sell; depositions proving their identity, their competency to manage their own affairs, and the value of the land; proof that the matter had been brought to the notice of the Indian agent, and that he had made no objection; to which I add now my own assertion that I distinctly stated to him that we had agreed to purchase one tract, and would endeavor to contract for others; and although Mr. Clarke denies in a general way that the matter was brought before him, he is contradicted by my allegation and the deposition of a disinterested witness.

These papers were not acted on by the President up to the 25th of May, and I have no knowledge that they have been acted on up to this time. To the matters contained in them, and my letter of April 1, 1855, to Commissioner Manyenny, which the President informed me he had read, I have but little to add, unless my attention shall be called to some particular point.

We knew that the vendors were entirely competent to manage their own affairs, and would have the aid of the President in doing so. We knew that the transaction was honorable and fair throughout, free from all fraud or deceit. We believed they had the right to sell, and we believe so still; and although it is possible we may be mistaken in this particular, yet I would not be guilty of so much disrespect to the President as to believe that he would consider such an error cause of removal. We also believed that we had the same right to buy as any other individuals, provided the transaction was a fair one, and marked by no imposition, deceit, or fraud. We have already shown that the transaction was marked by fair and honorable dealings throughout, and that the vendors had ample opportunities for consultation and deliberation, and for this I refer to the depositions now before the President. If the President is not satisfied on this point, I earnestly request that I may be informed in what particular he differs from me, and upon what facts his opinion is based; and it will be my pleasure to disprove any and every statement tending to raise a doubt in that direction. If, as the commissioner alleges, there is a rule of the department that the deed in such case shall be executed in presence of the agent, I have only to say, that as yet the deed remains to be made, and the vendors and the President have control of the whole matter, and can direct how the agreement shall be consummated—that the matter was (even in our ignorance of its necessity) brought to the notice of the agent, who furnished his interpreter to assist in making the



agreement, and considered the price a high one. I cannot conceive it to be on this point that the President is embarrassed; for even if the agreement is to be treated as a deed, and if Mr. Clarke's assertion is to outweigh my own and the deposition of a disinterested witness, there can be no complaint against us, except for the violation of an artificial rule of which we were ignorant.

If these explanations have not touched the point which has raised the President's embarrassment, I would, in view of the fact that the President has all the memorials, contracts, depositions, etc., now before him, in which all the points are raised, most respectfully request that the point of difficulty be distinctly stated, and that the papers, or copies of them, be forwarded to me, and I will meet it with all the directness and certainty of which I am capable.

In regard to the second charge, I would respectfully request some specification of what is alluded to, to enable me to reply satisfactorily to you, as well as myself. It is to be implied from the charge that some complaint has been made to the President, by some one, of specific acts done by me, in violation of law or regulation, and I cannot suppose it would be received and acted on without being in writing. At least, it must have had form and shape; and even though I may not know my accuser, it is not too much to ask that I may be informed of the particular act which I am charged with having committed, and the particular law I am charged with having violated.

On turning to the letter of G. W. Clarke, Indian agent, to which you refer me, I find that, in endeavoring to exculpate himself from charges of official delinquency, he indulges in much general vituperation, which I cannot for a moment suppose you wished me to notice; and the only matter to which I can judge that your general allusion can apply is an allegation that in October, 1854, I, with others, procured claims to be marked upon the Kansas half-breed reservations. In reply, I have only to say, that, as stated, it is untrue. In October, 1854, several gentlemen, including myself, happened to be at the house of Mr. Ellison, in a portion of the territory with which we were entirely unacquainted, and had never seen before. Being informed that desirable claims were to be had in the vicinity, upon land open to preemption, we requested that he would mark them out for us; and knowing that the Kansas half-breed lands were in the vicinity, but utterly ignorant of their lines, we requested him carefully to avoid entering upon them, as we had no desire to trespass on those reservations, and knew perfectly well that the marking of a claim upon an existing reservation would be utterly fruitless and nugatory, resulting in the loss of our labor, without the least chance of benefit. Mr. Ellison professed to know the lines, and assured us he would avoid these reserves. We left before the claims were marked, and I have never seen them since, nor do I know where they were made. I do not believe that Messrs. Ellison and Kranmer made them upon these reservations, or, if they did, I am satisfied they did it in a mistake of the lines. Finding that we could not personally occupy them, and that without occupancy we could not acquire title to them, we abandoned all idea of them, and have never looked after them, from the day they were made. That I endeavored to retain this claim, and advised an intruder to leave it, is untrue. It is true that, in a conversation with one of the gentlemen whom Mr. Clarke encouraged to go on these lands, I ascertained that he was upon a section for which he had contracted, and I informed him that he could not possibly acquire any title there; that if the contracts were confirmed by the President, we could not allow settlers to



remain there. He then inquired if he could not also contract for a tract, and I stated to him that there was one of the reservees who had for some time been offering to sell his section at \$4 per acre, and that if the President approved of our contracts, he could, without doubt, purchase that section. This conversation was, I think, in the month of February last; and so far from attempting to induce the gentleman to leave me my claims or take another for himself, I distinctly informed him that it was impossible for any man to acquire by settlement or preemption any interest or title to any of these reservations.

Most of the statements I have made in this communication are clearly proven by the depositions and papers now before the President. Those which are not, and particularly my statement in regard to the matters charged in the letter of G. W. Clarke, I can establish beyond all cavil, by the testimony of most unexceptionable witnesses, if necessary.

I cannot conclude this letter without again urging upon yourself and the President, as a matter of the simplest justice, demandable by the humblest man in the community, that I should be informed of the particular act to which exception is taken, and the particular aspect in which it is considered culpable; and if any law or regulation is violated, what that law or regulation is. I cannot suppose that the President has any desire to avoid a rule so necessary to a correct and conscientious discharge of his own duty, and so indispensable to the exculpation even of the most innocent man, and the absence of which is above all things calculated to bring the innocent and the guilty into the same category; I therefore ask it in the fullest confidence that it will not be denied. I am, very respectfully, your obedient servant,

A. H. REEDER, Governor, &c.

---

GOVERNOR REEDER TO MR. MARCY.

Shawnee Mission, Kansas Territory, June 26, 1855.

Sir: Since my letter to you of this morning, I met Col. E. C. McCarty, and procured from him the inclosed statement, which he is willing to verify by affidavit, if desired, but as there was no magistrate convenient, except the two judges involved in the charge, and as Colonel McCarty is one of the best and most reputable of the citizens of his county, a member of the last Missouri legislature, and a gentleman of the highest character, I considered it sufficient as it is.

Very respectfully, your obedient servant,

A. H. REEDER, Governor of the Territory of Kansas.

Hon. W. L. Marcy, Secretary of State, Washington.

[34th Cong., 1st Sess. S. Ex. Doc., No. 23.]

Shawnee Mission, June 26, 1854.

I, Edward C. McCarty, of Jackson county, Missouri, hereby state that, in the early part of the month of October, he was at the house of Paris Ellison, in the territory of Kansas, on the south side of Kansas river; that in company with Governor Reeder, Judge Elmore, Judge Johnston, Doctor Scott, of Virginia, J. B. Donalson, C. B. Donalson, and C. A. Williams, he staid all night at the houses of Paris Ellison and J. J. Kranmer; that in the morning whilst the party were preparing to start, Mr. Ellison stated that there was desirable land across the river open to preemption, and upon inquiry being made by some of the



party, whether it did not interfere with the Kansas half-breed lands, Mr. Ellison pointed out the place several miles above where he said the Kansas half-breed lands ended, and pointed out the place several miles below where, as he said, the Delaware reservation ended. I was myself under the same impression as to these lines. Some of Governor Reeder's party, himself included, then requested Mr. Ellison to mark claims there for them as soon as he would have time to do so, if he could make them, as he said, clear of these reserves, which Mr. Ellison agreed to do, and the party left. These claims were so marked, but I am satisfied they were abandoned and nothing done by the claimants after they were marked.

In the month of November, or early part of December, 1854, I stated to G. W. Clarke, Indian agent, that I intended to take a claim there, and Clarke, in a jocular way, said that the land was in his agency and that he would drive me off.

E. C. M'CARTY.

[34th Cong., 1st Sess., S. Ex. Doc., No. 23.]

MR. HUNTER TO GOVERNOR REEDER.

Department of State, Washington, July 28, 1855.

Sir: Your communication of the 26th of June has been received, and submitted to the President. In reply, he directs me to say that, after due consideration of the explanations which you offer in regard to your purchases of Kansas half-breed lands, and the facts in the case as reported to him and communicated to you by the department of the interior, he finds nothing in those explanations to remove the impressions which he had previously entertained of the character of the transaction. He directs me further to say, that your communication is not less unsatisfactory in what it altogether omits to explain. The letter addressed to you by this department on the 11th ultimo distinctly mentioned other grave matters of accusation of the same class. You assume that, when circumstances exist in the conduct of a public officer which require the question of his dismissal from office to be considered, it is the duty of the executive to make formal specifications of charge, and upon this erroneous presumption you withhold explanation in regard to the matters alluded to, although they were peculiarly within your own knowledge, and you could not but be well aware that some of them, more especially the undertaking of sundry persons, yourself included, to lay out new cities on military or other reservations in the territory of Kansas, were undergoing official investigation within that territory.

The incompleteness of that investigation at that time prevented its being spoken of explicitly by this department; but it was taken for granted that you would have cheerfully volunteered explanations upon this subject, so far as you were concerned, more particularly as you had summoned the legislative assembly of the territory to meet at one of the places referred to, denominated in your official proclamation "Pawnee City." I have, therefore, by the direction of the President, to notify you your functions and authority as governor of the territory of Kansas are hereby terminated.

I am sir, respectfully, &c.,

W. HUNTER, Acting Secretary.

Andrew H. Reeder, Esq., Governor of the Territory of Kansas.

[34th Cong., 1st Sess., S. Ex. Doc., No. 23.]





GOVERNOR REEDER TO MR. MARCY.

Shawnee Mission, Kansas Territory,  
Westport Post-Office, Mo., August 15, 1855.

Sir: The communication of Hon. W. Hunter, acting secretary of state, dated July 28, 1855, postmarked July 31, addressed to Fort Leavenworth, and remailed at that office on the 14th instant, was received by me to-day, in which I am notified that my functions and authority as governor of the territory of Kansas are terminated. Very respectfully, your obedient servant,

A. H. REEDER.

Hon. W. L. Marcy, Secretary of State, Washington.

[34th Cong., 1st Sess., S. Ex. Doc., No. 23.]

## ADMINISTRATION OF GOVERNOR SHANNON.

(Some papers omitted from former volumes Historical Collections.)

### ADDRESS OF GOVERNOR SHANNON.

Governor Wilson Shannon arrived at Westport, Mo., September 1, 1855, and delivered an address, which was reported as follows. He assumed the duties of his office at Shawnee Mission September 7.

Governor Shannon began his remarks by thanking the audience for their courteous reception. It gratified him, he said, not because it was personally flattering, but because it showed that they were not disposed to decide on his official career in advance. It showed him that he might rely on "your aid" in endeavoring to overcome obstacles which he was aware existed, but hoped were not insurmountable.

A voice: "Yes, you shall have our aid."

He regretted to see in certain portions of the territory a disposition to nullify the "laws which have been enacted by your legislature." This was a revolutionary movement, which was greatly to be deplored. He regretted, he said, that he had arrived too late to form the acquaintance of the members of the legislature. He knew nothing of the laws passed by them, but, from the ability and patriotism of the gentlemen who composed it, he doubted not they were wise and judicious. But, even if they were not wise and judicious, open resistance and nullification of them was not the proper way to defeat their provisions. If they were unconstitutional, there were courts to appeal to, which had been created for the purpose of deciding such questions.

As to the legislature that had recently adjourned, at the Shawnee Mission, he regarded it as a legal assembly (cheers), and thought that the objections to its power grounded on its removal from Pawnee were puerile, as every legislature enjoyed the right of removing the seat of government at pleasure. The executive and judiciary of the territory had acknowledged the legislature as a legal body, and so would he. ("Good.") He regarded the laws as binding on every citizen of the territory, and would use all his executive power and authority to carry them into effect. (Cheers.)

He said it was not his intention to address them on the various questions which divided the parties in the territory; perhaps he did not understand them; and he had not expected to speak on this occasion.

To one subject, however, he would allude—slavery. His official life and career were not unknown to a portion, at least, of the citizens of Kansas. He



had no intention of his political faith. He thought, with reference to slavery, that as Missouri and Kansas were adjoining states, as much of that immense commerce up the Missouri, which was already rivaling the commerce between the United States and some European countries, must necessarily lead to a great trade, and perpetual intercourse between them, it would be well if their institutions should harmonize—as otherwise there would be continual quarrels and border feuds. He was for slavery in Kansas. (Loud cheers.)

After thanking the audience, the new governor withdrew.  
[H. of F. Sept. 29, 1855.]

---

#### LETTER FROM GOVERNOR SHANNON.

Executive Office, Shawnee Mission, October 6, 1855.

G. W. Brown: Sir—In your paper of the 29th ultimo, which has just come to hand, you published what purports to be a speech, made by me at Westport, taken from the St. Louis "Democrat," and reported by the reporter of that journal, "who," you say, "was on the ground." You say further, that "the governor, it will be seen by his reported speech, comes out flat-footed for slavery." Now, I will not suppose that you design to misrepresent me, or do me intentional wrong; yet it is difficult to reconcile the publication of this caricature speech, with your comment on it, with that impartiality and desire to do justice to every one, in or out of office, which should characterize the editor of a public journal. There is scarcely a single idea that I uttered on that occasion correctly or fully represented in the speech you have published and indorsed as genuine.

I did not discuss the subject of slavery, in the few remarks I made at Westport, in any aspect whatever; nor did I express any opinion in relation to slavery in Kansas or elsewhere. I did not mention the subject of slavery during my remarks but once, and that was to say that I did not intend to speak of or discuss the subject. In speaking to a mixed assembly, that was composed, as I supposed at the time, of all parties, and of gentlemen residing on both sides of the line, who had assembled to give me a welcome to the country, no one, I suppose, expected me to speak on the subject of slavery, or to express my opinion on a question which had excited so much feeling among the citizens residing on both sides of the line. In responding to a welcome given me by the people assembled on that occasion, it would have been in bad taste and out of place to have introduced a subject calculated to excite the feelings, passions or prejudices of any portion of my audience. I spoke of Missouri and Kansas as being adjoining territories for more than 200 miles; that they were intimately connected in all the business relations of life, and must ever continue to be; that being so connected, it was the duty of the citizens of each to cultivate social and friendly relations; that nothing was to be gained on either side by keeping up a border feud, but, on the contrary, the settlement, growth and prosperity of both would be greatly promoted by cultivating harmony and the most friendly relations. I took occasion also to make some remarks I believed then, and still believe to be, entirely merited by the kindness and hospitality of the citizens of western Missouri. There was nothing in any of these remarks to which any one of proper feelings could take the slightest exception, no matter what his views on the subject of slavery might be.

I have made no speech since my arrival in the country in which I have



expressed any opinion on the subject of slavery; nor have I been placed in a position, since my arrival, where a public expression of such an opinion would have been proper.

In my private intercourse with the citizens of the territory I have not concealed or sought to conceal the views which I entertain in relation to my duty on this subject; and on a proper occasion I should not have the slightest objection to express them in a public speech, but no such proper occasion, in my judgment, has presented itself.

I voted for the Nebraska bill when in Congress because I then believed, and still believe, the principles of that bill to be right, and will bear the test of the most rigid scrutiny. The principle of that bill, so far as the question of slavery is concerned, is that the people of each territory have the right to determine for themselves whether they will or will not have slavery. The question of slavery, by that bill, is referred to the free and unbiased determination of the inhabitants of the territory. I consider it to be the duty of the executive of the territory to carry out honestly and in good faith the principle of this bill, at least so far as he has any power or agency in the matter. It would not be proper, nor in accordance with the principle of this bill, for the chief executive officer of the territory, sent out by the federal government, to use any accidental influence that official position might give him to influence the public mind either one way or the other. To secure to the inhabitants of the territory, without being interfered with by foreign votes from any quarter, on both sides, a fair expression of their opinions; to abide by the will of the majority, when fairly expressed, without becoming the advocate of either slavery or free states, is the course which my judgment dictates as the most proper for me to take in the present contest.

I further expressed the opinion, in the remark I made at Westport, that the legislature of Kansas was a legitimate body, and that, so far as their acts were not in conflict with the constitution of the United States or the laws of Congress, and were authorized by the legislative powers delegated to them by the organic law, were binding alike on the citizens and officers of the territory; and that I believed it was the duty of all to conform to those laws until they were changed or repealed in a regular and legal way. Is there anything wrong in this opinion? Do you seriously believe that the legislature was an illegal body, having no power to enact laws? Such is the ground I know some have taken, and I have been severely censured in certain quarters for holding that the acts of the legislature, within the scope of their authority, were binding.

The legislature had been recognized as legal both by my predecessor and the judiciary department. Would any one claim that I should have disregarded both, and held the legislature as illegal? This body had been convened by my predecessor at Pawnee City. No one doubted his power to convene them at that place. They organized as a legislative body, and the governor addressed them an annual message, inviting their consideration to various subjects of legislation; thus clearly recognizing them as a legal legislative body at Pawnee City. The legislature adjourned to this point—the Shawnee Mission—and although this law was vetoed by the governor, it was carried in both branches by almost, if not quite, a unanimous vote. And, so far as form, at least, is concerned, is binding. The right to adjourn was questioned by the governor; and to remove all doubt on this subject, the legislature called, by resolution, I believe, on the judges of the supreme court of the territory for their legal opinion as to their right to adjourn. Judges Lecompte and Elmore, of the supreme court—both gentlemen of distinguished legal ability—gave an



able opinion, sustaining the right of the legislature to adjourn their session from Pawnee City to the Shawnee Mission, and determining that they were a legal legislative body sitting at the place, and that, consequently, their acts passed in conformity with their legislative powers were obligatory and binding. Now is it possible that any man in or out of Kansas would have justified me in disregarding the acts of my predecessor, in disregarding the decision of the judges of the supreme court, in disregarding the opinion of the whole legislative body, and in setting aside and holding as null and void all the acts passed by that body? There is not a despot in Europe that would have exercised such an enormous stretch of power with impunity. I had to treat the legislature either as a legal or an illegal body; to have treated them as an illegal body would have been, as I have shown, under the circumstances, an act wholly unauthorized, and a criminal attempt—for it could have amounted to nothing more—to subvert the very government it was my duty to support. It was, then, my duty to recognize the legislature as a legal body. The moment that this is conceded to be the duty of the officers and citizens is plain: It is to obey the law prescribed by the lawmaking power, until it is changed in that mode known to our institutions.

But it is said that there were illegal votes cast at the election of the members. It is very probable this is true. Few elections take place anywhere without some illegal votes being cast. But this is not a matter that can be inquired into by an executive officer after members have received their certificates of election, been sworn in, and served out their term of office. Could the President of the United States pronounce the acts of Congress void, and refuse to carry them into effect, because illegal votes had been cast for various members of the body that enacted them? The idea is simply absurd. But what right had I to inquire whether illegal votes had been cast or not? My predecessor, who had the whole subject before him, and the means of knowing the truth, and to whose supervision the whole subject had been confided by the organic law, and under the solemn sanction of his official oath and under the broad seal of the territory, granted his certificate to each member elect, certifying that he had been duly elected. It is surely no compliment to my predecessor to say these certificates are false and wholly untrue.

The fact that after the legislature became organized the seats of two of the senate or council and probably some six of the house of representatives were contested, and that the contesting members were admitted to their seats, does not change the case. There is not, I believe, a legislative body in the United States but what claims, and is in the daily habit of exercising, the right to judge of the election and qualification of its own members. The council and house, then, did nothing more than exercise a right claimed and exercised by all legislative bodies. Indeed, the friends of Governor Reeder (and I believe you are one of them) predicate his claims to a seat as a delegate to Congress on the exercise of this very power. In the very nature of things, all legislative bodies must have and exercise this power. It is presumed they will always exercise it directly and in proper cases; but suppose they should not, will the absurd proposition be maintained that an abuse of this power renders void all their acts? Suppose the house of representatives of the United States should, in the exercise of this power, exclude, improperly, if you please, the whole delegation of a state, who produced their certificates of election, and admit a contesting delegation: Would any one claim that this would render void all the acts passed by that Congress, and that the President would have the right, and that it would be his duty, to nullify them, and treat them as having





no binding force? No one would claim the correctness of a proposition so absurd. Yet what is the difference between the case put, and the supposed one under consideration so far as the question of legality and binding force of laws are concerned? None certainly that will militate against the obligation of the acts of the Kansas legislature. It is proper that I should say that I entirely concur in the opinion expressed by the supreme court in relation to the power or right of the legislature to adjourn their session from the city of Pawnee to Shawnee Mission. This proposition I believe to be capable of moral demonstration; but I shall not go into an argument of this question at this time.

It follows from what I have said that I was bound to consider and treat the legislature as a legal body; and if right in this, their acts passed within the scope of their power were binding alike upon the officers and citizens of the territory. If these premises are correct, it follows also that all public meetings or movements on the part of the citizens of the territory which do not look to the change of these laws in a legal or regular way, but to nullification and resistance to the enforcement and execution of them, are unauthorized, and calculated to produce riots, breaches of the peace, disorders of the most alarming and fearful character, and to lead to measures subversive of the very framework of civil government. It was in view of movements of this kind that I remarked in my Westport speech, that I regretted to see a disposition on the part of some of the citizens of the territory to nullify the legislature and all the laws passed by that body. As an executive officer I have nothing to do with the expediency or in expediency of laws that have actually been passed by competent authority. That belongs to the legislature—not to either the judicial or executive departments of the government. If laws have been passed by the legislature which are not within the scope of their legality, the judicial department furnishes a plain and adequate remedy. If they have passed laws within the scope of their legal powers, but which are oppressive, the remedy is to be found at the ballot-box. Nothing will justify a revolutionary movement unless it is great and extraordinary oppression, and then only after all peaceful remedies have been tried and failed.

I have now said all I desire to say in relation to my remarks at Westport, and in vindication of their correctness: my sole object is to set myself right before the public. I am willing, and expect to be held answerable at the bar of public opinion for what I say, and the principles that I avow; but not for everything that may be attributed to me by designing politicians.

The same paper that contains the pretended report of my Westport speech contains also two other statements wholly untrue, in reference to myself, which I propose to correct. You say, in commenting on an article in the Washington City "Star," touching my appointment as governor of this territory, that "few men possess the tact to change the vote in a single congressional district, in two years, so as to have 1,000 majority in 1852 in his favor, and by his superior management change that vote so as to have 2,000 majority against him, two years after." Now, I am willing to believe that this is not a wilful misrepresentation on your part, but that you have been led to believe it true from having seen the same thing substantially stated in other papers.

The charge is that in 1852 I was elected to Congress by a majority of 1,000 votes, and that my course in Congress was such that in 1854 I was defeated by 2,000 votes.

Now, sir, there is not one word of truth in this, except that in 1852 I was



ected to Congress, and, if I recollect correctly, my majority was about 1,150 votes. I was not a candidate in 1854. The facts are these: In 1852 the democratic party in my district—composed of four counties—held a convention to nominate some one to be supported by the party for Congress. Although it was believed that the district was democratic yet it had been represented in Congress the four preceding years by a whig. It was further believed that the defeat of the party had been entirely owing to the rivalry existing between the different counties—each county pressing its own man, and being unwilling to support a candidate for any other place. This was the state of things when the convention met in July, 1852. I attended that convention—not as a candidate, for I had utterly refused to be one—but for the sole purpose of reconciling the difficulties between the different counties. With that view I procured a resolution to be offered that each county in the district should have but a single turn until all the counties had had a chance. I advocated this resolution and it was passed, and the delegates from the different counties were pledged to its support. Colonel Walton, my friend, was then nominated, but in about 10 days died. The same convention was reassembled, and I was nominated; and in accepting that nomination I alluded to the above resolution and the agency I had had in its passage and stated that I should adhere to it in good faith, and that under no circumstances would I be a candidate for reelection.

In the spring of 1854 (after I had voted for the Nebraska bill), I received a letter from some friends in an adjoining county, desiring to know if I would not consent to be a candidate for reelection. In reply, I again referred to the above resolution, and the agency I had in procuring its passage, and informed them that I had not the slightest wish to be a candidate; but if I had, honor would strictly forbid it. This correspondence was published in several papers at the time; so that you will see that I not only was not a candidate in 1854, but two years before had publicly declared that I would not be. The allegation, therefore, that I was defeated by 2,000 votes in seeking a reelection is wholly untrue.

Having disposed of this matter, and while I have your paper before me, I will notice another falsehood in it, in reference to myself. I entirely acquit you of originating this story. All the complaint I have to make against you is that it appears to give you such exquisite pleasure to publish the article from the Rock Island "Advertiser," and to indorse the editor as having formerly resided in Ohio, and "knew me like a book." As you do not give the name of the editor of the "Advertiser," I cannot say whether I ever had the honor of his acquaintance or not. If he really is from Ohio, I consider that as making out a prima facie case for him; and were I fully satisfied you were not mistaken on this point, I should be disposed to construe his article as an innocent attempt to say something in his paper for the amusement of his readers, without having any particular malice against me. He has probably seen—not the same thing—but something of a kindred character in some of the eastern papers, in which the editors appear to be ambitious to make the world believe they are profoundly versed in all that belongs to diplomatic matters.

But to come to the charge made by this quondam Ohio gentleman against me, and which you have indorsed with so much apparent satisfaction, and honor with a place in your paper directly by the side of my supposed Westport speech, giving mutual aid and importance to each other by their juxtaposition. The substance of the charge is, that when I went out as minister to



Mexico I "bore in my instructions three different forms of treaty, one of which was preferred as first best, by our Government, one as second best, and one third best. The first best form I was to propose first, and if Mexico would by no means accede to that I was to offer the third as a last compromise rather than war." (What was to be done with the second?) After stating some unimportant matters, the article goes on to say: "I had all three forms of the treaty I was instructed to propose published in the Mexican papers at once; of course my mission was a failure." Now, this is an entire fabrication from beginning to end; and there is not one word of truth in it.

I never received any such instructions as those supposed, and I never published or caused to be published a line of any kind in any Mexican paper, at any time. No human being except the secretary of legation ever saw any instructions I received from my government while at the Mexican court, until after they had been called for by Congress and thus made public. I am not aware that any instructions I ever did receive from my government have been called for by Congress and made public, except instructions sent to me some months after my arrival in Mexico, in relation to the right of that government to invade Texas and keep up a continued state of hostilities. As the instructions sent to me on that occasion, together with the protest of our government, based thereon, have been published, and as my agency in the matter has been grossly misrepresented and is now the subject of daily misrepresentation in a portion of the public papers, I deem it due to myself as well as the public that I should state the facts in relation thereto. At the time these instructions and this protest were published by Congress, I was charged by a certain class of politicians, who let no opportunity favorable or unfavorable pass to assail me, with having copied my instructions and sent them to the Mexican government. The charge was so absurd that it amounted to a "felo de se"—it killed itself; but since my appointment to the office of the governor of this territory it has been revived in various shapes and forms, furnishing a luminous text for disparaging comments in relation to myself. The facts are these—and I propose to state nothing more: Gen. Santa Anna was then at the head of the Mexican government, and had issued his decree for raising 20,000 additional troops—making the whole force of the army 60,000. This was done for the avowed purpose of invading Texas, and driving the Americans out. Large military stores and munitions of war were being collected at various points, forced loans were ordered, and every preparation seemed to be making to invade Texas and, to use the language of the government papers in Mexico, "to blot out the Texans." It was under these circumstances, and at this time of eminent peril to the people of Texas, and while negotiations were pending for the annexation of Texas to the United States, that the government determined to send to the Mexican government a solemn protest, not only against the threatened invasion but also against the right of Mexico to keep up and prolong these hostilities. It was a bold and vigorous policy, determined by Mr. Calhoun, then secretary of state, under the direction of President Tyler. It was well known that the Mexican government at that time was in the habit of publishing all important correspondence that took place between the two governments in relation to Texas, and that consequently this protest, as soon as sent to the Mexican government, would be published in the government papers, and thus find its way at once to the public. It was also known that it was a document, and would be severely criticized and commented on both in Europe and this country. Under these circumstances, Mr. Calhoun drew up instructions to me as miu-



ister, and at the same time drew up the protest based on these instructions, and sent both to me by a special bearer of dispatches, with directions to make such modifications in the protest as my knowledge of facts obtained on the ground would suggest as proper, and then to sign it and send it to the Mexican government. I did precisely as directed by my government, as any minister would have done, having any knowledge of his duties.

It was a document, as Mr. Calhoun in his unofficial note to me observed, in which the President preferred to express his own ideas in his own words, and to have its whole contents carefully considered and agreed on before leaving Washington.

Those acquainted with the mode of conducting diplomatic intercourse between two governments know that this protest, at least in conformity with the ordinary practice, had to receive my signature as minister before being sent to the Mexican government, or, in other words, it had to be sent through the minister. When this protest and the instructions on which it was based were called for by Congress, and published, there appeared to be an identity of ideas in the protest and instructions, and in many cases an identity of words. Both were drawn by Mr. Calhoun, and were the well-considered productions of his great mind. And I will leave it for the editors of the public journals who have commented on the identity of these two documents to determine among themselves whether it is most likely they or Mr. Calhoun have fallen into a diplomatic blunder.

Having rectified your last paper as to myself, I have the honor to be, yours,  
with great respect,

WILSON SHANNON.

[H. of F., Oct. 27, 1855.]

---

ANOTHER LETTER FROM GOVERNOR SHANNON.

Executive Office, Shawnee Mission, October 14, 1855.

G. W. Brown, Esq.: In your paper of the 6th inst. you have published a story in relation to myself which is utterly false; stripped of its verbiage it is this: That in 1840, when making a stump speech at Chillicothe, Ohio, I denounced General Harrison in unmeasured terms, calling him an old granny, a petticoat hero, etc.; for which the ladies presented me a red flannel petticoat. This is an entire fabrication—not a word of truth in it when applied to me. Some such story was started by the whigs in 1840 in relation to Colonel Allen, of Ohio. It had its day, and, like all falsehoods, in due time died out, and has been sleeping the sleep of death for the last 15 years; and how you came to draw it forth from oblivion and apply it to me I know not. There is not a whig in Ohio but knows it is false when applied to me, and you cannot get one in that state to indorse it. I never uttered a disrespectful word, either publicly or privately, in relation to General Harrison in my whole life. In 1840, in my public speeches and in the private circle, I repeatedly said that I believed General Harrison was a brave man and a patriotic man. Personally, I never entertained toward that distinguished citizen of my native state any other feeling than that of sincere respect, and never on any occasion gave utterance to any other feeling. No such occurrence as the one you mention, or anything like it, ever took place with myself, and you can get no man in Ohio who will say so.

I have to ask you to publish this letter. Yours with respect,

WILSON SHANNON.

[H. of F., Oct. 27, 1855.]





## WAKARUSA WAR PAPERS.

## BRIEF HISTORY FROM WILDER'S ANNALS.

November 21.—Charles W. Dow killed, by Franklin N. Coleman, pro-slavery, near Hickory Point, Douglas county. The free-state men held a meeting on the 22d, at the scene of the murder. That night Sheriff Jones arrested Jacob Branson, with whom Dow had lived, for taking part in the free-state meeting. Jones, with his prisoner and a posse of 14 men, proceeded toward Lecompton, via Blanton. Near J. B. Abbott's house, at Blanton, Jones's party was confronted by 15 free-state men, among them Samuel N. Wood, J. B. Abbott, and Samuel F. Tappan. They requested Branson to leave the sheriff's party; he did so. Jones sent to Shawnee Mission for aid. A meeting was held in Lawrence, and was addressed by Branson. A mob from Missouri was feared, and the citizens were placed under arms. On the 2d of December, free-state companies from Bloomington, Wakarusa and Palmyra had arrived in Lawrence. Jones, with a bodyguard, rode through Lawrence. General Richardson and staff dined with J. H. Lane. A company of 100 armed free-state men arrived from Topeka at 9 in the evening. On Monday, the 3d, a proclamation was received from Governor Shannon calling upon all good citizens to aid the sheriff in the recapture of Branson. It was dated November 29. A public meeting, through Chas. Robinson, chairman, reported that there was no association of lawless men in Lawrence. The roar of the cannon at Franklin, where the invaders are massed, is occasionally heard in the free-state town. On Tuesday, the 4th, it is reported that Judge Cato's court had found bills of indictment against the leading free-state men. Loaded wagons destined for Lawrence are stopped and robbed of provisions and ammunition. Messengers are sent to Governor Shannon, asking him to remove the mob which is menacing Lawrence. Dr. C. Robinson is elected commander-in-chief, and the citizen soldiery is fully organized. [James H. Lane, brigadier-general.] On Friday, the 7th, news is received of the murder of Thomas W. Barber, the previous afternoon, while returning to his home near Bloomington, from Lawrence. He was accompanied by his brother, Robert Barber, and his brother-in-law, Thos. Pierson. Four miles southwest of Lawrence they met 12 horsemen, who were going to Franklin. The free-state men, refusing to surrender, were fired upon. One ball passed through the body of Thomas W. Barber; he rode a short distance, fell, and expired. His body was brought to Lawrence, which he had so lately been engaged in defending. Governor Shannon arrives, and consults with Robinson and Lane. Shannon, at night, goes to Franklin. John Brown and four sons, all armed, are in Lawrence. On Saturday, the 8th, Governor Shannon again appears, with Colonel Boone, of Westport, Mo., and one or two others. News is received that S. C. Pomeroy, who had left Lawrence to go to the eastern states, is a prisoner at Franklin. The body of Barber is temporarily buried. Robinson and Lane go back to the pro-slavery camp with Shannon. Sunday morning, December 9, was extremely cold. Negotiations with Governor Shannon were finally completed, and were made known by Lane and Robinson. A supper for



Governor Shannon was arranged for Monday night; he was not present. It was a joyful occasion for the citizens. On Tuesday, the 11th, the volunteer companies from other towns took their departure. Of Governor Shannon, the "Herald of Freedom" says: "He came, learned the facts, and like an honorable man, has done what he could to retrace his steps."

---

WOODSON TO EASTON.

November —, 1855.

Gen. Lucien J. Easton, Leavenworth, K. T.— Dear General:

The governor having called out the militia, this is to inform you to order out your division and to proceed forthwith to Lecompton. The governor not having the power, you can call on the Platte county rifle company, as our neighbors are always ready to help us. Do not implicate the governor, whatever you do.

DANIEL WOODSON.

[H. of F., December 1, 1855.]

---

SHANNON TO PIERCE.

[By telegraph.]

Westport, Mo., December 1, 1855.

I desire authority to call on the United States forces at Leavenworth to preserve the peace of this territory; to protect the sheriff of Douglas county, and enable him to execute the legal process in his hands. If the laws are not executed, civil war is inevitable. An armed force of one thousand men, with all the implements of war, it is said, are at Lawrence. They have rescued a prisoner from the sheriff; burnt houses, and threatened the lives of citizens. Immediate assistance is desired. This is the only means to save bloodshed. Particulars by mail.

WILSON SHANNON.

His Excellency, Franklin Pierce.

Received, Washington, December 3, 1855, 10 o'clock, 5 min., a. m.

REPLY.

December 3, 1855.

Your dispatch is received. All the power vested in the executive will be exerted to preserve order and enforce the laws. On the receipt of your letter, the preliminary measures necessary to be taken before calling out troops will be promptly executed, and you will then be fully advised.

FRANKLIN PIERCE.

Wilson Shannon, Governor of the Territory of Kansas.

[S. Ex. Doc. No. 23. 34 Cong., 1st Sess.]

---

INFORMATION AGAINST BRANSON.

United States of America, Territory of Kansas, ss.

Be it remembered, that on this 6th day of December, in the year A. D. 1855, personally appeared before me, J. M. Burrell, one of the associate justices of the supreme court of the said territory of Kansas, Harrison Buckley, of lawful age, who being by me duly sworn, saith that he is a citizen of the county of Douglas, and has resided therein since the 30th day of March last, and has resided during all that time at Hickory Grove; that he was informed on good authority, and which he believed to be true,



that Jacob Branson had threatened his life, both before and after the difficulty between Coleman and Dow, which led to the death of the latter. I understood that Branson swore that deponent should not breathe the pure air three minutes after I returned, this deponent at this time having gone down to Westport, in Missouri; that it was these threats, made in various shapes, that made this deponent really fear his life, and which induced him to make affidavit against the said Branson, and procure a peace warrant to issue, and be placed in the hands of the sheriff of Douglas county; that this deponent was with the said sheriff (S. J. Jones) at the time the said Branson was arrested, which took place about 2 or 3 o'clock in the morning; that Branson was in bed when he was arrested by said sheriff; that no pistol or other weapon was presented at the said Branson by anyone; that after the arrest, and after the company with the sheriff had proceeded about five miles in the direction of LeCompton, the county seat of Douglas county, the said sheriff and his posse were set upon by about between 30 and 40 men, who came out from behind a house, all armed with Sharp's rifles, and presented their guns cocked, and called out who they were; and said Branson replied that they had got him a prisoner; and these armed men called on him to come away. Branson then went over to their side, and Sheriff Jones said they were doing something they would regret hereafter in resisting the laws; that he was sheriff of Douglas county, and, as such, had arrested Branson. These armed men replied that they had no laws, no sheriff, and no governor, and that they knew no laws but their guns. The sheriff, being overpowered, said to these men that if they took him by force of arms he had no more to say, or something to that import, and then we rode off. This deponent further states, that there has been three houses burned in the Hickory Point settlement; one was this deponent's house, another belonged to Josiah Hargis, and the third to said Coleman. All I had in the world was burned up, leaving my wife and children without clothing. This deponent's wife and four children fled to Missouri, where they still remain with their relatives. The house of deponent was burned down, as it is said, shortly before daylight in the morning. The wives and children of both Coleman and Hargis also fled to Missouri, where they still remain. There were about 15 or 16 law-abiding families in the settlement called Hickory Grove settlement about the time these difficulties sprung up; they have all been forced by terror and threats of these armed men to flee with their wives and children to the state of Missouri for protection, and still remain there. These armed men have repeatedly in my presence said they would resist the law by force, and there was no law in this territory. These threats have been repeatedly made by these men for the last three months. And further this deponent saith not.

H. H. BUCKLEY.

Sworn and subscribed the day and year above stated before me, J. M. Burrell, Associate Justice Supreme Court, Kansas Territory.

[34th Cong., 1st Sess., S. Ex. Doc. No. 23.]

#### INFORMATION AGAINST THE RESCUERS.

United States of America, Territory of Kansas, ss.

Be it remembered, that on this 7th day of December, A. D. 1855, personally came before me, S. G. Cato, one of the associate justices of the supreme court of the territory of Kansas, Josiah Hargis, of lawful age, who



being by me duly sworn, deposeseth and saith, that on or about the 26th day of November, 1855, in Douglas county, Sheriff Jones called upon me, with nine others, to act as a posse to arrest one Jacob Branson, under a peace warrant issued by Hugh Cameron, a justice of the peace; that he proceeded with said sheriff to Hickory Point, in said county, and there arrested said Branson, with whom they proceeded in the direction of Lawrence. When near a house on the Wakarusa an armed mob of persons, amounting to between 30 and 40, rushed from behind said house, and by force did rescue said Branson out of the hands of said sheriff and posse, and, in defiance of said sheriff's command, take said Branson and refuse to deliver him to said sheriff. That the said sheriff told the said mob that he held said Branson under a peace warrant properly issued by a legally authorized officer; and that he was sheriff of said county of Douglas, and charged with the execution of said writ. The leader of said mob replied to said officer that they knew him as Mr. Jones, but not as sheriff of Douglas county. He then told them that he would call out the militia to enforce the law. Their reply was that he could not get men to enforce said law. He told them then that he would call on the governor for assistance; to which the said mob replied that they had no laws and no officers, and to pitch in. Said mob stood with their guns cocked and presented at the time of said rescue.

This deponent further saith, one H. W. Buckley, of said county of Douglas, was with said sheriff at the time of said rescue, as one of said sheriff's posse; that during the same night on which said rescue was made said affiant saw a light in the direction of said Buckley's house, and that he fully believes said house was at that time burned. That he believes, from circumstances within his knowledge, that said house, together with his own, was burned by persons concerned with said mob; and that he has reasons to believe that some of said houses were fired by said Branson aforesaid, assisted by a German, commonly called Dutch Charley; and they were counseled and advised thereto by one Farley. This affiant further says, that at the time of the rescue of said prisoner he was at a house near Hickory Point, and that he there saw three women, who told him that there had been an armed force that day who notified them to leave, and all other pro-slavery families in the neighborhood; and since said families have left said neighborhood and fled to the state of Missouri. Said affiant says that he believes there were at that time in said neighborhood about 15 pro-slavery families, nearly all of whom have fled, as aforesaid, to the state of Missouri for protection. Said armed force was represented to consist of from 100 to 150 armed men.

S. N. HARGIS.

Sworn and subscribed before me, S. G. Cato, associate justice of Kansas Territory.

[34th Cong., 1st Sess., S. Ex. Doc., No. 23.]

#### APPEALS TO THE PRESIDENT.

Lawrence, Kansas Territory, January 21, 1856.

Sir: We have authentic information that an overwhelming force of the citizens of Missouri are organizing upon our border, amply supplied with artillery, for the avowed purpose of invading this territory, demolishing our towns, and butchering our unoffending free-state citizens. We respectfully demand, on behalf of the citizens of Kansas, that the commandants of the





United States troops in this vicinity be immediately instructed to interfere to prevent such an inhuman outrage. Respectfully,

J. H. LANE, Chairman Executive Committee, K. T.

C. ROBINSON, Chairman Committee of Safety.

Attest: J. K. GOODIN, Sec'y Ex Com., K. T.

GEO. W. DEITZLER, Sec'y Com. of Safety.

Franklin Pierce, President United States.

[34th Cong., 1st Sess., S. Ex. Doc., No. 23.]

#### THE TREATY.

Treaty of peace signed by Gov. W. Shannon, C. Robinson and J. H. Lane, and commissions of Generals Robinson and Lane, copied from the original "in Governor Shannon's own handwriting."

"Whereas, There is a misunderstanding between the people of Kansas, or a portion of them, and the governor thereof, arising out of the rescue, near Hickory Point, of a citizen under arrest, and some other matters;

"And whereas, a strong apprehension exists that said misunderstanding may lead to civil strife and bloodshed;

"And whereas, it is desired by both Governor Shannon and the citizens of Lawrence and vicinity, to avert a calamity so disastrous to the interests of the territory and the union, and to place all parties in a correct position before the world: Now, therefore, it is agreed by the said Governor Shannon and the undersigned citizens of said territory in Lawrence now assembled, that the matter now in dispute, be settled as follows, to wit:

"We, the said citizens of said territory, protest that the said rescue was made without our knowledge or consent; but that if any of the citizens of the town of Lawrence have engaged in said rescue, we pledge ourselves to aid in the execution of any legal process against them; that we have no knowledge of the previous, present or prospective existence of any organization in said territory for the resistance of the laws; and that we have not designed and do not design, to resist the legal service of any criminal process therein; but pledge ourselves to aid in the execution of the laws, when called upon by the proper authority in the town or vicinity of Lawrence, and that we will use our influence in preserving order therein; and we declare that we are now, as we always have been, ready at any time to aid the governor in securing a posse for the execution of such process: Provided, That any person thus arrested in Lawrence or vicinity, while a foreign force shall remain in the territory, shall be duly examined before a United States district judge of said territory, in said town, and admitted to bail: And provided further, That all citizens arrested without legal process by said sheriff's posse shall be set at liberty: And provided further, That Governor Shannon agrees to use his influence to secure to the citizens of Kansas territory remuneration for any damages suffered, or unlawful depredations, if any have been committed by the sheriff's posse in Douglas county: And further, Governor Shannon states that he has not called upon persons resident in any state to aid in the execution of the laws, and that such as are here in the territory are here of their own choice, and that he does not consider that he has any authority or legal power so to do, nor will he exercise any such power; and that he will not call on any citizens of any other state who may be here. That we wish it under-



stood that we do not express any opinion as to the enactments of the territorial legislature.

WILSON SHANNON.  
C. ROBINSON.  
J. H. LANE.

December 8, 1855.

We also subjoin the commissions of Generals Robinson and Lane:

To C. Robinson and J. H. Lane, commanders of the enrolled citizens at Lawrence: You are hereby authorized and directed to take such measures and use the enrolled force under your command in such manner, for the preservation of the peace and the protection of the persons and property of the people in Lawrence and vicinity, as in your judgment shall best secure that end.

WILSON SHANNON.

Lawrence, Dec. 9, 1855.

[H. of F., Jan. 12, 1856.]

---

#### LANE AND ROBINSON TO THE PRESIDENT.

Lawrence City, January 23, 1856.

Sir: We notified you that an overwhelming force, supplied with artillery, was organizing upon our border for the avowed purpose of invading Kansas, demolishing the towns, and butchering the unoffending free-state citizens—they constituting nineteen-twentieths of the entire population. In addition to the relief respectfully demanded in that notice, we earnestly request you to issue your proclamation immediately, forbidding the invasion. We trust there may be no delay in taking so important a step to prevent an outrage which, if carried out as planned, will stand forth without a parallel in the world's history. Yours respectfully,

J. H. LANE, Chairman Executive Committee, K. T.  
C. ROBINSON, Chairman Committee of Safety.

President of the United States.

[34 Cong., 1st Sess., S. Ex. Doc. No. 23.]

---

#### GOVERNOR SHANNON'S EXPLANATION.

Executive Office, Shawnee Mission, December 25, 1855.

Dear Sir: Your favor of this day's date is before me. In reply, I have to state that the arrangements of the difficulty with the citizens assembled in the town of Lawrence during the recent disturbances was reduced to writing by myself, and intended to be on liberal terms, honorable alike to all parties. In my arrangement with them, my great object was to secure the supremacy of the law, and bring about, if possible, a more friendly feeling between the two conflicting parties, and thus secure a lasting peace and amicable relations. I knew that this object would be defeated by insisting on any terms that would be humiliating to the parties concerned, and I was determined to extend to the citizens assembled in Lawrence every opportunity for placing themselves in what I deemed a correct position in reference to the execution of the laws. The paper which was shown you was probably a correct copy of the arrangement entered into on the 8th inst.

As to the paper dated on the 9th inst., and purporting to be addressed to C. Robinson and J. H. Lane, I desire to make an explanation, so as to present the truth in relation to the manner in which it was obtained, as well as my object in signing it. In order to understand this matter, it is necessary that I should make some preliminary statements.



On the morning of the 9th, about sunrise, I issued my orders for disbanding the forces assembled around Lawrence. I remained at the Wakarusa camp until the forces at that place had retired. This they did, in good order. About 10 o'clock A. M. of that day (it being Sunday), I went, in company with Brigadier-General Strickler, to Lawrence, where, with Sheriff Jones and others of the pro-slavery party, I spent a considerable portion of the day. In the evening I was invited to attend a social gathering of ladies and gentlemen of the town of Lawrence, at the Emigration Aid Society Hotel, which I accepted. There were but two rooms finished in the hotel; they were small and in the third story, and were, therefore, very much crowded by the company assembled. The time was spent in the most friendly and social manner, and it seemed to be a matter of congratulation on every side that the difficulties so lately threatened had at length been brought to a happy termination. In the midst of this convivial party, and about 10 o'clock at night, Dr. C. Robinson came to me, and, in a state of apparent excitement, declared their picket guard had just come in and reported that there was a large, irregular force near the town of Lawrence, who were threatening an attack; adding that the citizens of Lawrence claimed the protection of the executive, and to this end desired me to give himself and Colonel Lane written permission to repel the threatened assault. I replied to Doctor Robinson that they did not require any authority from me, as they would be entirely justified in repelling by force any attack upon their town; that the law of self-preservation was sufficient, and that any authority which I might give would add nothing to its strength. The doctor replied that they had been represented as having arrayed themselves against the laws and public officers of the territory, and that he, therefore, wished me to give him written authority to repel the threatened assault, so that it might appear hereafter, if a rencontre did take place, that they were not acting against but with the approbation of the territorial executive. With this view, amid an excited throng, in a small and crowded apartment, and without any critical examination of the paper which Doctor Robinson had just written, I signed it; but it was distinctly understood that it had no application to anything but the threatened attack on Lawrence that night.

I had, during my negotiations with Doctor Robinson, as one of the committee on behalf of the citizens assembled in Lawrence, repeatedly assured him that if the people of that place would acknowledge the validity of the territorial laws until otherwise determined by legitimate authority, and would place themselves under their protection, I would exert all the power vested in me to protect the citizens of that town, both in their persons and property, and in securing them from an attack. And I will here state that an arrangement had been made with those assembled in Lawrence, and after my assurances of protection, so far as in my power lay, I should have looked upon an assault upon the town of Lawrence, on the night of December the 9th, as an outrage and wholly unjustifiable, and I should have found myself bound in duty and honor to have exerted myself to the utmost to have prevented so unwarrantable an act of violence.

It was under these circumstances, and with a view of carrying out in good faith my assurances to the citizens of that place—pending negotiations—and to avoid all cause of complaint on the part of the people of Lawrence, on any pretext, for breaking from the stipulation concluded but the day before, that I signed a paper authorizing C. Robinson and J. H. Lane to repel the threatened attack on the town of Lawrence. It was done, on my part, with the kindest and best of motives, from an earnest desire to restore harmony and confidence. It did not, for a moment, occur to me that this pretended attack upon the town was but a



device to obtain from me a paper which might be used to my prejudice. I supposed by the time I was surrounded by gentlemen and by grateful hearts, and not by tricksters, who, with fraudulent representations, were seeking to obtain advantage over me. I was the last man on the globe who deserved such treatment from the citizens of Lawrence. For four days and nights, at the cost of many valuable friends, whose good will I have forfeited by favoring too pacific a course, I had labored most incessantly to save their town from destruction and their citizens from a bloody fight.

On the next morning after this transaction took place, upon the most diligent inquiry, I could not learn that any force whatever had ever made its appearance before Lawrence upon the night before; and on a full inquiry into the matter since, I am now satisfied that there was no hostile party at any place near Lawrence on the night of the 9th.

This paper, obtained as I have stated, has, I presume, been shown by Doctor Robinson, and copies permitted to have been taken and used, as a purpose of giving an air of legality to the acts of the citizens assembled in Lawrence previous to its date. No such purpose was contemplated by me, and I repeat, that the paper I signed was only intended to apply to the alleged threatening of the town of Lawrence by an armed force, on the night of December 9, and if it was obtained or has been used for any other purpose, it is an exhibition of base ingratitude and low trickery, which should render infamous the name of every one connected with it.

Yours, with great respect, WILSON SHANNON.

["Herald of Freedom," Feb. 8, 1856, p. 3, col. 2. — First published in the New York "Herald."]

---

GOVERNOR ROBINSON'S STATEMENT IN REPLY.

Lawrence, February 14, 1856.

G. W. Brown, Esq.: Dear Sir—In your paper of last week I observe a letter from Governor Shannon, which, as it contains a one-sided statement, calls for an answer from me.

After Governor Shannon had learned the position of our people, he admitted that we had done no wrong, and was only solicitous to remove the invading force without a collision. He said he feared he could not control them, and it was to aid him, at his request, that General Lane and myself visited Franklin. We told the governor, distinctly, that we had done no wrong, and we demanded the removal of the murderers and marauders calling themselves his posse. The governor, instead of demanding that we should pledge our people to the observance of the laws of the territorial legislature, said that he did not pretend to insist upon the enforcement of these laws, but he wanted to have such laws as were common to all countries, particularly criminal laws, respected. He was told plainly, as were the parties at Franklin, that the people of Lawrence, and the territory generally, repudiated the territorial legislature and its acts, but there was no organized opposition to them, every man acting as he thought best.

On Sunday the governor dined with several citizens of Lawrence and vicinity, and was apparently well pleased with his treatment. After dinner he was invited to the headquarters of the committee of safety, and spent a few hours in company with a few ladies who had met in an adjoining room for the purpose of arranging for a social gathering, to come off the next evening. I was not aware that the room was crowded, or that the governor was unduly excited. During the session of the committee of safety, word came from the guard that it was





rumored that a portion of the disbanded army were preparing to make an attack upon Lawrence. Thinking it prudent to act under the authority of the government in case of an attack, I applied to the governor for some writing to show that we had his approval in defending our town. He readily responded, and said if I would draw up a writing he would sign it. I did so, and he went to the desk, read it very deliberately, and signed it. The writing was directed to myself alone in the first instance, but afterwards the governor told me that General Lane was dissatisfied because his name was not included, and requested me to interline it. This was done accordingly. The evening passed off pleasantly, the governor saying it was the happiest day of his life. The next morning I received a note from the governor, requesting that the papers signed by him be kept from the newspapers, as their publication would do no good. I answered him in person that several copies had been taken of them by reporters, and possibly some had been already sent away, but that I would give directions in accordance with his wishes. The result proved that several copies had gone to the printers in the states, as the publication was first made there. It is to be regretted that the governor should labor under the impression that the people of Lawrence intended to play tricks on him. Such was not the case. They felt that the executive had caused them to be invaded by an armed mob, and robbed them of their property and murdered one of their citizens, and that he was under obligations to repair these injuries so far as lay in his power; and the governor, at that time, appeared to be very anxious to make the best amends he could.

His attempt now to misrepresent our citizens and the facts in the case is worthy of the severest censure, for we have acted in good faith, and endeavored to shield him from public indignation to the extent of our ability; and even now I would let him make the most of his statements, did he not wantonly assail the motives of those who endeavored to assist him.

As for the letters of Mr. Jones, who calls himself sheriff of Douglas county, I never considered him a party to the settlement, and never made any statement to him inconsistent with the published terms of the treaty, as it is called; and whatever he may say to the contrary is without foundation in truth. He can make such use of his Billingsgate as he likes. Some man once said, "No gentleman will insult me, and no other person can." I am sorry, however, to lose the good opinion of Mr. Jones, but I am too poor to pay anything for it.

Yours truly, C. ROBINSON.

[Herald of Freedom, February 16, 1856.]

---

## TROUBLES, PAST AND THREATENED.

### THE PRESIDENT'S MESSAGE ON KANSAS AFFAIRS.

Washington, January 24, 1856.

To the Senate and House of Representatives:

Circumstances have occurred to disturb the course of governmental organization in the territory of Kansas, and produce there a condition of things which renders it incumbent on me to call your attention to the subject, and urgently recommend the adoption by you of such measures of legislation as the grave exigencies of the case appear to require.

A brief exposition of the circumstances referred to, and of their causes, will



be necessary to the full understanding of the recommendations which it is proposed to submit.

The act to organize the territories of Nebraska and Kansas was a manifestation of the legislative opinion of Congress on two great points of constitutional construction: One, that the designation of the boundaries of the new territory, and provision for its political organization and administration as a territory, are measures which of right fall within the powers of the general government; and the other, that the inhabitants of any such territory, considered at an inchoate state, in the exercise of self government, to determine for themselves what shall be their own domestic institutions, subject only to the constitution and the laws duly enacted by Congress under it, and to the power of the existing states to decide, according to the provisions and principles of the constitution, at what time the territory shall be received as a state into the union. Such are the great political rights which are solemnly declared and affirmed by that act.

Based upon this theory, the act of Congress defined for each territory the outlines of republican government, distributing public authority among lawfully created agents— executive, judicial, and legislative— to be appointed either by the general government or by the territory. The legislative functions were intrusted to a council and a house of representatives, duly elected, and empowered to enact all the local laws which they might deem essential to their prosperity, happiness, and good government. Acting in the same spirit, Congress also defined the persons who were in the first instance to be considered as the people of each territory; enacting that every free white male inhabitant of the same above the age of 21 years, being an actual resident thereof, and possessing the qualifications hereafter described, should be entitled to vote at the first election, and be eligible to any office within the territory; but that the qualifications of voters and holding office at all subsequent elections should be such as might be prescribed by the legislative assembly: Provided, however, That the right of suffrage and of holding office should be exercised only by citizens of the United States, and those who should have declared on oath their intention to become such, and to have taken an oath to support the constitution of the United States and the provisions of the act: And provided further, That no officer, soldier, seaman, or marine, or other person in the army or navy of the United States, or attached to troops in their service, should be allowed to vote or hold office in either territory by reason of being on service therein.

Such of the public officers of the territory as, by the provisions of the act, were to be appointed by the general government, including the governors, were appointed and commissioned in due season— the law having been enacted on the 30th of May, 1854, and the commission of the governor of the territory of Nebraska being dated on the 2d day of August, 1854, and of the territory of Kansas on the 29th day of June, 1854.

Among the duties imposed by the act on the governors was that of direction and superintending the political organization of the respective territories. The governor of Kansas was required to cause a census or enumeration of the inhabitants or qualified voters of the several counties and districts of the territory to be taken, by such persons and in such mode as he might designate and appoint; to appoint and direct the time and places of holding the first elections, and the manner of conducting them, both as to the persons to superintend such elections and the returns thereof; to declare the number of the members of the council and house of representatives for each county or district; to declare what person might appear to be duly elected, and to appoint the time and place of the first



meeting of the legislative assembly. In substance, the same duties were devolved on the governor of Nebraska.

While, by this act, the principle of the constitution for each of the territories was one, and the details of organic legislation regarding both were as nearly as could be identical, and while the territory of Nebraska was tranquilly and successfully organized in the course of law, and its first legislative assembly met on the 16th of January, 1855, the organization of Kansas was long delayed, and has been attended with serious difficulties and embarrassments, partly the consequence of local maladministration, and partly of the unjustifiable interference of the inhabitants of some of the states, foreign by residence, interests and rights to the territory.

The governor of the territory of Kansas, commissioned, as before stated, on the 29th of June, 1854, did not reach the designated seat of his government until the 7th of the ensuing October; and even then failed to make the first step in its legal organization — that of ordering the census or enumeration of its inhabitants — until so late a day that the election of the members of the legislative assembly did not take place until the 30th of March, 1855, nor its meeting until the 2d of July, 1855; so that, for a year after the territory was constituted by the act of Congress, and the officers to be appointed by the federal executive had been commissioned, it was without a complete government, without any legislative authority, without local law, and of course without the ordinary guarantees of peace and public order.

In other respects the governor, instead of exercising constant vigilance, and putting forth all his energies to prevent or counteract the tendencies to illegality which are prone to exist in all imperfectly organized and newly associated communities, allowed his attention to be diverted from official obligation by other objects, and himself set an example of the violation of law in the performance of acts which rendered it my duty, in the sequel, to remove him from the office of chief executive magistrate of the territory.

Before the requisite preparation was accomplished for election of a territorial legislature, an election of delegate to Congress had been held in the territory on the 29th day of November, 1854, and the delegate took his seat in the house of representatives without challenge. If arrangements had been perfected by the governor so that the election for members of the legislative assembly might be held in the several precincts at the same time as for delegate to Congress, any question appertaining to the qualifications of the persons voting as people of the territory would have passed necessarily and at once under the supervision of Congress, as the judge of the validity of the return of the delegate, and would have been determined before conflicting passions had become inflamed by time, and before opportunity could have been afforded for systematic interference of the people of individual states.

This interference, in so far as concerns its primary causes and its immediate commencement, was one of the incidents of that pernicious agitation on the subject of the condition of the colored persons held to service in some of the states which has long disturbed the repose of our country, and excited individuals, otherwise patriotic and law abiding, to toil with misdirected zeal in the attempt to propagate their social theories by the perversion and abuse of the powers of Congress.

The persons and parties whom the tenor of the act to organize the territories of Nebraska and Kansas thwarted in the endeavor to impose, through the agency of Congress, their particular views of social organization on the people of the future new states, now perceiving that the policy of leaving the inhabitants of each



state to judge for themselves in this respect was ineradicably rooted in the convictions of the people of the union, then had recourse, in the pursuit of their general object, to the extraordinary measure of propagandists colonization of the territory of Kansas, to prevent the free and natural action of its inhabitants in its internal organization, and thus to anticipate or to force the determination of that question in this inchoate state.

With such views associations were organized in some of the states, and their purposes were proclaimed through the press in language extremely irritating and offensive to those of whom the colonists were to become the neighbors. Those designs and acts had the necessary consequence to awaken emotions of intense indignation in states near to the territory of Kansas, and especially in the adjoining state of Missouri, whose domestic peace was thus the most directly endangered; but they are far from justifying the illegal and reprehensible counter-movements which ensued.

Under these inauspicious circumstances the primary election for members of the legislative assembly were held in most, if not all, of the precincts at the time, and the places, and by the persons designated and appointed by the governor according to law.

Angry accusations that illegal votes had been polled abounded on all sides, and imputations were made of both fraud and violence. But the governor, in the exercise of the power and the discharge of the duty conferred and imposed by law on him alone, officially received and considered the return; declared a large majority of the members of the council and the house of representatives "duly elected"; withheld certificates from others because of alleged illegality of votes; appointed a new election to supply the place of the persons not certified; and thus at length, in all the forms of statute, and with his own official authentication, complete legality was given to the first legislative assembly of the territory.

Those decisions of the returning officers and of the governor are final, except that, by the parliamentary usage of the country applied to the organic law, it may be conceded that each house of the assembly must have been competent to determine, in the last resort, the qualifications and the elections of its members. The subject was, by its nature, one appertaining exclusively to the jurisdiction of the local authorities of the territory. Whatever irregularities may have occurred in the elections, it seems too late now to raise that question. At all events, it is a question as to which, neither now nor at any previous time, has the least possible legal authority been possessed by the president of the United States. For all present purposes, the legislative body thus constituted and elected was the legitimate assembly of the territory.

Accordingly the governor, by proclamation, convened the assembly thus elected to meet at a place called Pawnee City. The two houses met, and were duly organized in the ordinary parliamentary form; each sent to and received from the governor the official communication usual on such occasions; an elaborate message opening the session was communicated by the governor; and the general business of legislation was entered upon by the legislative assembly.

But, after a few days, the assembly resolved to adjourn to another place in the territory. A law was accordingly passed, against the consent of the governor, but in due form otherwise, to remove the seat of government temporarily to the "Shawnee manual labor school" (or mission), and thither the assembly proceeded. After this, receiving a bill for the establishment of a ferry at the town of Kickapoo, the governor refused to sign it; and, by special message, assigned for reason of refusal not anything objectionable in the bill itself, nor any pretense of the illegality or incompetency of the assembly as such, but only the fact that the





assembly had by its acts transferred the seat of government temporarily from Pawnee City to Shawnee Mission. For the same reason he continued to refuse to sign other bills, until in the course of a few days he, by official message, communicated to the assembly the fact that he had received notification of the termination of his function as governor, and that the duties of the office were legally devolved on the secretary of the territory; thus to the last recognizing the body as a duly elected and constitutional legislative assembly.

It will be perceived that if any constitutional defects attached to the legislative acts of the assembly it is not pretended to consist in irregularity of election or want of qualifications of the members, but only in the change of its place of session. However trivial the objection may seem to be, it requires to be considered, because upon it is founded all that superstructure of acts, plainly against law, which now threatens the peace, not only of the territory of Kansas, but of the union.

Such an objection to the proceeding of the legislative assembly was of objectionable origin, for the reason that, by the express terms of the organic law, the seat of government of the territory was located temporarily at Fort Leavenworth; and yet the governor himself remained there less than two months, and of his own discretion transferred the seat of government to the Shawnee Mission, where it was in fact at the time the assembly were called to meet at Pawnee City. If the governor had any right to change temporarily the seat of government, still more had the legislative assembly. The objection is of exceptionable origin for the further reason that the place indicated by the governor, without having any exclusive claim or preference in itself, was a proposed town-site only, which he and others were attempting to locate unlawfully upon land within a military reservation, and for participation in which illegal act the commandant of the post, a superior officer of the army, has been dismissed by sentence of the court-martial.

Nor is it easy to see why the legislative assembly might not with propriety pass the territorial act transferring its sittings to the Shawnee Mission. If it could not, that must be on account of some prohibitory or incompatible provisions of the act of Congress. But no such provision exists. The organic act, as already quoted, says "the seat of government is hereby located temporarily at Fort Leavenworth," and it then provides that certain of the public buildings there "may be occupied and used under the direction of the governor and legislative assembly." These expressions might possibly be construed to imply that when, in a previous section of the act, it was enacted that "the first legislative assembly shall meet at such place and on such day as the governor shall appoint," the word "place" means place at Leavenworth — not place anywhere in the territory. If so, the governor would have been the first to err in this matter, not only in himself having removed the seat of government to the Shawnee Mission, but in again removing it to Pawnee City. If there was any departure from the letter of the law, therefore, it was his in both instances.

But, however this may be, it is most unreasonable to suppose that by the terms of the organic act Congress intended to do impliedly what it has done expressly — that is, to forbid the legislative assembly the power to choose any place it might seem fit as a temporary seat of its deliberations. That is proved by the significant language of one of the subsequent acts of Congress on the subject, that of March 3, 1855, which, in making appropriation for public buildings of the territory, enacts, that the same shall not be expended "until the legislature shall have fixed by law the permanent seat of government." Congress, in those expressions, does not profess to be granting the power to fix a permanent seat of government, but recognized the power as one already granted. But how? Un-



doubtedly by the comprehensive provision of the organic act itself, which declares that "the legislative power of the territory shall extend to all rightful subjects of legislation consistent with the constitution of the United States and the provisions of this act." If, in view of this act, the legislative assembly had the large power to fix the permanent seat of government at any place in its discretion, of course, by the same enactment, it had the less and the included power to fix it temporarily.

Nevertheless the allegation that the acts of the legislative assembly were illegal by reason of this removal of its place of session was brought forward to justify the first great movement in disregard of the law within the territory. One of the acts of the legislative assembly provided for the election of delegate to the present Congress, and a delegate was elected under that law. But, subsequently to this, a portion of the people of the territory proceeded, without authority of law, to elect another delegate.

Following upon this movement was another and more important one of the same general character: persons confessedly not constituting the body politic, or all the inhabitants, but merely a party of the inhabitants, and without law, having undertaken to summon a convention for the purpose of transforming the territory into a state, and have framed a constitution, adopted it, and under it elected a governor and other officers, and a representative to Congress.

In extenuation of these illegal acts, it is alleged that the states of California, Michigan and others were self-organized, and as such were admitted into the union without a previous enabling act of Congress. It is true that while in a majority of cases a previous act of Congress has been passed to authorize the territory to present itself as a state, and that this is being the most regular course, yet such an act has not been held to be indispensable, and, in some cases, the territory has proceeded without it, and has nevertheless been admitted into the union as a state.

It lies with Congress to authorize beforehand, or to confirm afterwards in its discretion; but in no instance has a state been admitted upon the application of persons acting against authorities duly constituted by act of Congress. In every case it is the people of the territory, not a party among them, who have the power to form a constitution and ask for admission as a state. No principle of public law, no practice or precedent under the constitution of the United States, no rule of reason, right, or common sense, confers any such power as that now claimed by a mere party in the territory. In fact, what has been done is of revolutionary character. It is avowedly so in motive and aim as respects the local law of the territory. It will become treasonable insurrection if it reach the length of organized resistance by force of the fundamental or any other federal law, and to the authority and the general government.

In such an event the path of duty for the executive is plain. The constitution requiring him to take care that the laws of the United States be faithfully executed, if they be opposed in the territory of Kansas, he may and should place at the disposal of the marshal any public force of the United States which happens to be within the jurisdiction, to be used as a portion of the posse comitatus; and if that does not suffice to maintain order, then he may call forth the militia of one or more states for that object, or employ for the same object any part of the land or naval force of the United States. So, also, if the obstructions be to the laws of the territory, and it be duly presented to him as a case of insurrection, he may employ for its suppression the militia of any state or the land or naval force of the United States. And if the territory be invaded by the citizens of other states, whether for the purpose of deciding elections, or for any other, and the



local authorities find themselves unable to repel or withstand it, they will be entitled to, and upon the fact being fully ascertained they shall most certainly receive the aid of the general government.

But it is not the duty of the President of the United States to volunteer interposition by force to preserve the purity of elections, either in a state or territory. To do so would be subversive of public freedom. And whether a law be wise or unwise, just or unjust, is not a question for him to judge. If it be constitutional—that is, a law of the land—it is his duty to cause it to be executed, or to sustain the authority of any state or territory in executing it, in opposition to all insurrectionary movements.

Our system affords no justification of revolutionary acts: for the constitutional means of relieving the people of unjust administration and laws, by a change of public agents and by repeal, are ample, and more prompt and effective than illegal violence. These constitutional means must be scrupulously guarded, this great prerogative of popular sovereignty sacredly respected.

It is the undoubted right of the peaceful and orderly people of the territory of Kansas to elect their own legislative body, make their own laws, and regulate their own social institutions, without foreign or domestic molestation. Interference, on one hand, to procure the abolition or prohibition of slave labor in the territory, has produced mischievous interference on the other for its maintenance or introduction. One wrong begets another. Statements entirely unfounded, or grossly exaggerated, concerning events within the territory, are sedulously diffused through remote states, to feed the flame of sectional animosity there; and the agitators there exert themselves indefatigably in return to encourage and stimulate strife within the territory.

The inflammatory agitation, of which the present is but a part, has for 20 years procured nothing save unmitigated evil—North and South. But for it the character of the domestic institutions of the future new state would have been a matter of too little interest to the inhabitants of the contiguous states, personally or collectively, to produce among them any political emotion. Climate, soil, production, hopes of rapid advancement, and the pursuit of happiness on the part of the settlers themselves, with good wishes but with no interference from without, would have quietly determined the question which is at this time of such disturbing character.

But we are constrained to turn our attention to the circumstances of embarrassment as they now exist. It is the duty of the people of Kansas to discountenance every act or purpose of resistance to its laws. Above all, the emergency appeals to the citizens of the states, and especially of those contiguous to the territory, neither by intervention of non-residents in elections, nor by unauthorized military force to attempt to encroach upon or usurp the authority of the inhabitants of the territory.

No citizen of our country should permit himself to forget that he is a part of its government, and entitled to be heard in the determination of its policy and its measures; and that, therefore, the highest consideration of personal honor and patriotism require him to maintain, by whatever of power or influence he may possess, the integrity of the law of the republic.

Entertaining these views, it will be my imperative duty to exert the whole power of the federal executive to support public order in the territory; to vindicate its laws, whether federal or local, against all attempts of organized resistance; and so to protect its people in the establishment of their own institutions, undisturbed by encroachment from without, and in the full enjoyment of the rights of



self-government assured to them by the constitution and the organic act of Congress.

Although serious and threatening disturbances in the territory of Kansas, announced to me by the governor in December last, were speedily quieted without the effusion of blood, and in a satisfactory manner, there is, I regret to say, reason to apprehend that disorders will continue to occur there, with increasing tendency to violence, until some decisive measures taken to dispose of the question itself which constitutes the inducement or occasion of internal agitation and of external interference.

This, it seems to me, can best be accomplished by providing that, when the inhabitants of Kansas may desire it, and shall be of sufficient numbers to constitute a state, a convention of delegates, duly elected by the qualified voters, shall assemble to frame a constitution, and thus to prepare, through regular and lawful means, for its admission into the union as a state.

I respectfully recommend the enactment of a law to that effect.

I recommend, also, that a special appropriation be made to defray any expense which may become requisite in the execution of the laws or the maintenance of public order in the territory of Kansas.

FRANKLIN PIERCE.

[Leavenworth "Herald," Feb. 16, 1856.]

#### GOVERNOR REEDER'S REPLY TO THE PRESIDENT.

[The following reply to the President, by Hon. A. H. Reeder, from the New York "Tribune," reflects the highest credit on our delegate, and entitles him to the sincere thanks of the people of Kansas]:

Sir: The special message of the President of the United States, communicated yesterday to Congress, assails not only myself personally, but also my constituents, whom inclination as well as duty imperiously demands of me to justify and protect. Entirely satisfied as I am with the course adopted, up to this time, by the people of Kansas; convinced that it has been dictated by a desire to preserve the peace, the reputation and the glory of our country; knowing that it has, at every stage, been characterized by the most conservative moderation and laudable regard for the rights of others; having seen at every step the plainest manifestation of the anxious desire to avoid even the semblance of encroachment or aggression, I should be false to every manly impulse and every sense of duty if I allowed the aspersions of the message to pass unnoticed.

Unless the message shall incite and stimulate new invasions of our territory and fresh outrages upon our citizens, it will produce to us no regret, as it has caused no surprise. After having seen our people trampled on, oppressed, and robbed, on the one hand, by the invaders of their soil, and, on the other, by the influence, the authority and the officers of the present administration; after having witnessed the cold-blooded murder of an unarmed and unoffending citizen by an officer of the administration, who is not only unmolested by the laws and unrebuked by the President who appointed him, but who has, perhaps, strengthened his official tenancy and enhanced his chances of promotion by the act, it is not at all surprising that we should, by the head of that administration, be misrepresented and perverted. After having seen the chief magistrate, during five organized invasions of our territory, unmoved by a single sympathy in favor of an unoffending people innocent of all wrong, and laboring only to carry out faithfully for themselves the doctrine of self-government, and to build up and extend the greatness of our country; after having seen our invaders coming upon us armed





(without reproof, if not with official permission), from the contents of the arsenals of the United States, establishing a system of martial law over life and property, regulated only by the uncontrolled will of vindictive and irresponsible men—a system under which life was taken and property destroyed; the highways obstructed; travelers seized, searched, and detained; all the pursuits of life paralyzed, and the destruction and extermination of whole settlements threatened and evidently intended, backed up by the sanction and authority of the federal officers, who pledge publicly the cooperation of the President; and all based upon the fact that a man encouraged, perhaps aided, by his friends had made his escape from an arrest on a constable's peace warrant—after having thus seen our natural and legal protectors joining in the most atrocious measures of oppression and wrong, it is no matter of surprise to see misrepresentation of our position and our objects emanating from the same source.

This is not the mode nor the time in which to discuss the themes of this message. Expecting, as I have a right to expect, from the clearness of the exclusive title I am prepared to show, that I shall enjoy a seat and a voice on the floor of the house, I am willing patiently "to bide my time." At the proper time and place, however, I pledge myself to meet and expose the misstatements of facts and the errors of law and logic which it contains. I will show that there is nothing but cold cruelty and insult in the request of an appropriation to pay an army or a posse to prevent the people of Kansas from the commission of outrage and treason. I will show that the movement for a state government is misstated as to the facts of its origin and progress, and that all we have done in this direction has been under the sanction of the precepts and examples of all the great men of the country for the last 50 years, of the legislation of Congress and the action of the executive in repeated and well-considered cases, and of a deliberate opinion of a high and distinguished attorney-general of the United States, and which, as it is a part of the archives of the executive department, it is to be regretted the President did not consult before the delivery of the message. If it is illegality and incipient treason for a new state to be formed without an enabling act of Congress, I will show that 14 senators of the United States hold their seats, and seven states stand in this union, by virtue of illegal and treasonable proceedings; that Congress has sanctioned revolution, illegality, and treason, again and again; and that the rank and noxious weed has even flourished in the White House and executive department; and, having vindicated my people, I will also, with the utmost confidence of success, proceed to the minor and secondary task of vindicating myself, in such a manner, I trust, as to show the attack to have been ill-advised and unfortunate.

As to the discussion in the message of the points involved in the contested seat, I shall meet them when the case is heard; and as the house is the sole constitutional judge of the qualifications of its own members, I trust that the minds of members may be kept open and unprejudiced until they shall hear the law and the facts of the case, and that, whether the discussion by the executive of some of the points involved has been made because they were incidental to another subject, or aimed and intended to prejudice my claim, I hope in either case that both sides may be heard before a decision.

This hasty note has swelled to an unpremeditated length. Its object is only to solicit from the house and the public a suspension of judgment as to the position and action of our people, as to my right to a seat, and as to the charges against me in the message, until I can be heard.

Very respectfully yours,

A. H. REEDER.

Washington City, January 25, 1856.

[H. of F., Feb. 16, 1856.]



## A PROCLAMATION.

By the President of the United States of America:

Whereas, Indications exist that public tranquillity and the supremacy of law in the territory of Kansas are endangered by the reprehensible acts or purposes of persons, both within and without the same, who propose to direct and control its political organization by force; it appearing that combinations have been formed therein to resist the execution of the territorial laws, and thus, in effect, subvert by violence all present constitutional and legal authority; it also appearing that persons residing without the territory, but near its borders, contemplate armed intervention in the affairs thereof; it also appearing that other persons, inhabitants of remote states, are collecting money, engaging men and providing arms for the same purpose; and it further appearing that combinations within the territory are endeavoring, by the agency of emissaries and otherwise, to induce individual states of the union to intervene in the affairs thereof, in violation of the constitution of the United States:

And, whereas, All such plans for the determination of the future institutions of the territory, if carried into action from within the same, will constitute the fact of insurrection, and if from without, that of invasive aggression, and will in either case justify and require the forcible interposition of the whole power of the general government as well to maintain the laws of the territory as those of the union.

Now, therefore, I, Franklin Pierce, President of the United States, do issue this my proclamation to command all persons engaged in unlawful combinations against the constituted authority of the territory of Kansas or of the United States, to disperse and retire peaceably to their respective abodes, and to warn all such persons that any attempted insurrection in said territory, or aggressive intrusion into the same, will be resisted, not only by the employment of the local militia, but also by that of any available forces of the United States, to the end of assuring immunity from violence and full protection to the persons, property and civil rights of all peaceful and law-abiding inhabitants of the territory.

If, in any part of the union, the fury of faction or fanaticism, inflamed into disregard of the great principles of popular sovereignty, which, under the constitution, are fundamental in the whole structure of our institutions, is to bring on the country the dire calamity of an arbitrament of arms in that territory, it shall be between lawless violence on the one side and conservative force on the other, wielded by legal authority of the general government.

I call on the citizens, both of adjoining and of distant states, to abstain from unauthorized intermeddling in the local concerns of the territory, admonishing them that its organic law is to be executed with impartial justice; that all individual acts of illegal interference will incur condign punishment; and that any endeavor to intervene by organized force will be firmly withstood.

I invoke all good citizens to promote order by rendering obedience to the law; to seek remedy for temporary evils by peaceful means; to discountenance and repulse the counsels and instigations of agitators and of disorganizers; and to testify their attachment to their country, their pride in its greatness, their appreciation of the blessings they enjoy, and their determination that republican institutions shall not fail in their hands, by cooperating to uphold the majesty of the laws and to vindicate the sanctity of the constitution.

In testimony whereof, I have hereunto set my hand, and caused the seal of the United States to be affixed to these presents.

Done at the city of Washington, the 11th day of February, in the year of our



Lord one thousand eight hundred and fifty-six, and of the independence of the United States the eightieth. [SEAL.] FRANKLIN PIERCE.

By the President; W. L. MARCY, Secretary of State.  
[N. Y. Daily Tribune, February 13, 1856.]

THE SECRETARY OF WAR TO COLONELS SUMNER AND COOKE.

War Department, Washington, February 15, 1856.

Sir: The President has, by proclamation, warned all persons combined for insurrection or invasive aggression against the organized government of the territory of Kansas, or associated to resist the due execution of the laws therein, to abstain from such revolutionary and lawless proceedings, and has commanded them to disperse and retire peaceably to their respective abodes, on pain of being resisted by his whole constitutional power. If, therefore, the governor of the territory, finding the ordinary course of judicial proceedings and the powers vested in the United States marshals, inadequate for the suppression of insurrectionary combinations or armed resistance to the execution of the law, should make requisition upon you to furnish a military force to aid him in the performance of that official duty, you are hereby directed to employ for that purpose such part of your command as may in your judgment consistently be detached from their ordinary duty.

In executing this delicate function of the military power of the United States, you will exercise much caution, to avoid, if possible, collision with even insurgent citizens, and will endeavor to suppress resistance to the laws and constituted authorities by that moral force which, happily, in our country, is ordinarily sufficient to secure respect to the laws of the land and the regularly constituted authorities of the government. You will use a sound discretion as to the moment at which the further employment of the military force may be discontinued, and avail yourself of the first opportunity to return with your command to the more grateful and prouder service of the soldier, that of the common defense.

For your guidance in the premises, you are referred to the acts of 28th of February, 1795, and 3d of March, 1807, (see Military Laws, pages 301 and 123), and to the proclamation of the President, a copy of which is herewith transmitted.

Should you need further or more specific instructions, or should, in the progress of events, doubts arise in your mind as to the course which it may be proper for you to pursue, you will communicate directly with this department, stating the points upon which you wish to be informed.

Very respectfully, your obedient servant,

JEFFERSON DAVIS, Secretary of War.

[34 Cong., 1st Sess., S. Ex. Doc. No. 23.]

War Department, February 15, 1856.

Sir: The foregoing is a copy of the letters, addressed to Colonel E. V. Sumner, United States Army, commanding at Fort Leavenworth, and to Brevet Colonel P. St. George Cooke, commanding at Fort Riley, and is furnished for your information.

I have the honor to be, very respectfully, your obedient servant,

JEFFERSON DAVIS, Secretary of War.

Hon. Wilson Shannon, Governor of Kansas Territory.

[34 Cong., 1st Sess., S. Ex. Doc. No. 23.]



## MARCY TO SHANNON.

Department of State, Washington, February 16, 1856.

Sir: I herewith inclose to you a copy of a proclamation by the President, dated the 11th instant, duly authenticated, and also a copy of orders issued from the department of war to Colonel Sumner and Brevet Colonel Cooke, of the United States army.

The President is unwilling to believe that, in executing your duties as governor of the territory of Kansas, there will be any occasion to call in the aid of the United States troops for that purpose, and it is enjoined upon you to do all that possibly can be done before resorting to that measure; yet, if it becomes indispensably necessary to do so in order to execute the laws and preserve the peace, you are hereby authorized by the President to make requisitions upon the officers commanding the United States military forces at Fort Leavenworth and Fort Riley for such assistance as may be needed for the above specified purpose.

While confiding in the respect of our citizens for the laws, and the efficiency of the ordinary means provided for protecting their rights and property, he deems it, however, not improper, considering the peculiar situation of affairs in the territory of Kansas, that you should be authorized to have the power herein conferred, with a view to meet any extraordinary emergency that may arise; trusting that it will not be used until you shall find a resort to it unavoidable, in order to insure the due execution of the laws and to preserve the public peace.

Before any actual interposition of the military force on any occasion, you will cause the proclamation of the President, with which you are herewith furnished, to be publicly read.

I am, sir, very respectfully, your obedient servant, W. L. MARCY.  
 Hon. Wilson Shannon, Governor of the Territory of Kansas.  
 [34 Cong. 1st Sess., S. Ex. Doc. 23.]

## MR. CALHOUN TO MR. MARCY.

Washington City, February 16, 1856.

Sir: In compliance with your request for an estimate of the present population of Kansas Territory, I furnish you with the result of a calculation based upon the vote said to be given last October. From many inquiries of persons living in the various parts of Kansas, I have no doubt the calculation approximates closely to the truth. The united vote given to General Whitfield, and said to be given to Governor Reeder, make, about 6,000. If it be considered that in a new country like Kansas a very large proportion of the inhabitants are young men without families, an estimate of four, or at most five, inhabitants to each voter will not be judged far from the truth. This will give from 24,000 to 30,000 inhabitants in the territory. But General Whitfield's friends contend that the men voting for Governor Reeder, acting under no restraint of law, increased his vote greatly by double voting; and Governor Reeder's friends insist that General Whitfield's vote was considerably increased by votes given by citizens of Missouri. If these statements be true, the actual voters of the territory will be lessened; and the population, which is estimated upon the votes, will fall below the above calculation. I leave others to determine these disputed points, and give it as my opinion that there are not more than five times as many people in the territory as there are voters, and that the number of voters does not exceed 6,000.

Very respectfully, your obedient servant, J. CALHOUN.  
 Hon. Wm. L. Marcy, Secretary of State, U. S., Washington City, D. C.  
 [34 Cong., 1st Sess., S. Ex. Doc. 23.]





## COLONEL SUMNER TO MAYOR OF LAWRENCE.

Headquarters First Cavalry, Fort Leavenworth, April 22, 1856.

Sir—A small detachment proceeds to Lecompton this morning on the requisition of the governor, under the orders of the President, to assist the sheriff of Douglas county in executing several writs, in which he says he has been resisted. I know nothing of the merits of the case, and have nothing to do with them. But I would respectfully impress upon you, and others in authority, the necessity of yielding obedience to the proclamation and orders of the general government. Ours is emphatically a government of laws, and if they are set at naught, there is an end of all order. I feel assured that, on reflection, you will not compel me to resort to violence in carrying out the orders of government. I am, sir, very respectfully, your obedient servant, E. V. SUMNER, Col. 1st Cav., Com.

To the Mayor of Lawrence.

[Leavenworth Herald, Feb. 16, 1856.—Kansas Weekly Herald, May 10, 1856.]

## MILITARY FORCES IN KANSAS.

## FOR ARRESTS FOR VIOLATION OF SHAWNEE MISSION LAWS.

To the House of Representatives:

I communicate herewith a report from the secretary of war, in response to a resolution of the house of representatives of the 12th instant, requesting me to inform the house "whether United States soldiers have been employed in the territory of Kansas to arrest persons charged with a violation of certain supposed laws, enacted by a supposed legislature assembled at Shawnee Mission."

FRANKLIN PIERCE.

Washington, May 22, 1856.

War Department, Washington May 21, 1856.

Sir: I have to acknowledge the reference to this department of a resolution of the house of representatives, dated the 12th instant, requesting the President to inform the house "whether United States soldiers have been employed in the territory of Kansas to arrest persons charged with a violation of certain supposed laws, enacted by a supposed legislature assembled at Shawnee Mission, in said territory," etc.

In reply I have to state, that by instructions from this department, dated the 15th of February last, Col. E. V. Sumner and Lieut.-Col. P. S. G. Cooke were directed to aid by a military force the constituted authorities of the territory of Kansas in suppressing insurrection or invasive aggression against the organized government of the territory, or armed resistance to the execution of the laws, in case the governor, finding the ordinary course of judicial proceedings and the powers vested in the United States marshal inadequate for the purpose, should make requisition upon them for a military force to aid him in the performance of that official duty.

Under these instructions, and upon the requisition of Governor Shannon, a detachment of troops, under a lieutenant, was ordered to report to the governor to sustain the constituted authorities in the enforcement of the laws. The proceedings in the case are specifically set forth in the inclosed copies of the correspondence, which contain the only information the department has upon the subject.

The instructions from this department, being directed exclusively to the sup-



port of the organized government and constituted authorities of the territory, convey no authority to employ soldiers to aid, by making arrests or otherwise, in the enforcement of "supposed laws, enacted by a supposed legislature." The department, therefore, presumes and believes that United States soldiers have not been employed to make arrests under the circumstances stated in the resolution.

Very respectfully, your obedient servant,

To the President.

JEFFERSON DAVIS, Secretary of War.

Headquarters, Fort Leavenworth, May 7, 1856.

Sir: I have the honor to forward herewith further correspondence in relation to Kansas difficulties. Very respectfully, your obedient servant,

E. V. SUMNER, Col. 1st Cavalry, Com'g.

Col. S. Cooper, Adjutant-General United States Army, Washington, D. C.

Executive Office, Lecompton, K. T., April 24, 1856.

Sir: I have the honor to acknowledge the receipt of your letter of the 21st, and also of the 22d instant. Lieutenant McIntosh reported his command to me at this place agreeably to instructions. His report to you will put you in possession of all that has transpired while aiding the sheriff of this county in the execution of the process in his hands.

It is due to Lieutenant McIntosh that I should say that his prompt and efficient action, and the important services which he has rendered the sheriff in executing the laws, entitle him to my warmest commendations and most sincere thanks.

Hoping to see you soon, when I will be able to explain matters further, I have the honor to be your obedient servant,

WILSON SHANNON.

Colonel Sumner.

Executive Office, Lecompton, K. T., April 25, 1856.

Sir: I am satisfied that the persons against whom writs have been issued and placed in the hands of the sheriff of this county, and who have not been taken, have secreted themselves or fled, so that for the present no further arrests can be made; nevertheless I deem it prudent to have a military posse or guard of 30 men stationed at this place, and subject to my orders, to act in case of an emergency. I would therefore request you to furnish me with such a guard from your command, to be used as a sheriff's posse, and to preserve the peace, as occasion may require. I have no further requisition to make on you at present, but would respectfully request you to hold your command in readiness to act at a moment's warning, if required by me, to enforce the laws or preserve the peace.

Yours, with great respect,

WILSON SHANNON.

Colonel Sumner.

Franklin, April 28, 1856.

Colonel: Under the direction of the governor, I started from Lecompton early this morning with the intention of assisting the deputy sheriff in serving writs left by Mr. Jones. We arrived at Lawrence about half-past 6 o'clock a. m.; and although we remained in town nearly two hours, the sheriff was unsuccessful in his search; apparently those for whom he had writs had left the town. I shall remain near here for two or three days in order to be nearer the sheriff, and to attend to the serving of the writs.



The governor has not yet issued any writs against Mr. Reeder or Robinson, and I do not think he will at present. As I passed through Lawrence this morning, everything seemed to be quiet and orderly, and I hear very little at present of the Missouriians.

The person who takes this is in haste to leave. If anything important occurs, I shall let you know of it by express.

Very respectfully, your obedient servant,

JAMES McINTOSH, 1st Lieut. 1st Cavalry, Com'g Detachment.

Colonel Sumner, 1st Cavalry, Commanding.

[34 Cong., 1st Sess. H. Ex. Doc. 106.]

## GOVERNOR GEARY'S ADMINISTRATION.

### CORRESPONDENCE.

Leavenworth City, 9th September, 1856.

His Excellency, Governor Geary:

Dear Sir: The undersigned have been appointed a committee by the common council of the city of Leavenworth to tender to you the hospitalities of our town, and to ask of you, in the name of our fellow citizens, the acceptance of a public dinner, which is hereby tendered, at such time as may best suit your pleasure.

We sincerely hope that you may find it convenient to comply with the request herein mentioned.

With warm wishes for the restoration of peace and fraternal feeling in our suffering country, under your administration, and for your individual prosperity and happiness, we are, sir,

Very respectfully, your obedient servants,

JOHN A. HALDERMAN,

O. F. RENICK,

WILLIAM A. SHANNON,

Committee.

Fort Leavenworth, September 9, 1856.

Gentlemen: Your invitation tendering me the hospitalities of the city of Leavenworth, and a public dinner, has been duly received. The many public duties pressing upon me just at the time of my advent into the territory, entirely preclude the possibility of my accepting your kindness just at this time. At some future day it will afford me pleasure to meet you around the festive board.

Your warm desires for the restoration of peace and fraternal feeling in Kansas meets a most hearty response in my bosom and in that of every true patriot.

Please accept the warmest assurances of my most hearty desires for your prosperity and happiness, individually and collectively, and for the permanent peace of the territory.

With great respect, your obedient servant, JOHN W. GEARY.

Messrs. John A. Halderman, O. F. Renick, William Shannon, committee.

[Leavenworth Herald, Sep. 13, 1856.]



## ELECTION TO FILL VACANCY.

(The contest of Gov. A. H. Reeder for the seat as delegate in Congress held by J. W. Whitfield, under the election of October, 1855, resulted in the decision that neither had been elected, and a vacancy was declared.)

## PROCLAMATION.

Whereas, A vacancy exists in the office of delegate to the house of representatives of the United States from the territory of Kansas:

Now, therefore, I, John W. Geary, governor of the territory of Kansas, do hereby issue this my proclamation, requiring the sheriffs of each county in said territory to cause a poll to be opened on the first Monday in October, 1856, the day of the general election, for a delegate to the second session of the thirty-fourth Congress of the United States, and to cause returns thereof to be made to the office of the secretary of the territory, in the manner prescribed by law, at the same time that the returns of the general election are made.

In testimony whereof, I have hereunto subscribed my hand and caused to be affixed the seal of the territory.

Done at Lecompton, this 21st day of September, A. D. 1856.

[Seal.] JOHN W. GEARY, Governor of Kansas Territory.

By the Governor: Daniel Woodson, Secretary.

[From the Leavenworth Herald, September 27, 1856.]

## SECRETARY MARCY TO GOVERNOR GRIMES.

Office of Secretary of State,

Washington, D. C., October —, 1856.

To his Excellency James W. Grimes, Governor of Iowa:

Sir: Your letter of date August 30, addressed to the President, has been referred by him to this department, with instructions to reply as follows: The President regrets that you should "have been receiving letters, memorials and affidavits from former citizens of Iowa in Kansas for a whole year, alleging that they are not protected by the United States officers in the enjoyment of their liberty and property." That your excellency should be subjected to such an annoyance, is the more painful when we consider that you have no power to grant redress.

The state of affairs in Kansas is to be regretted deeply by all American citizens. The President is not less sensitive than you are as to the rights of the citizens of Kansas. His power, however, is only executive and which he is sworn to execute. It therefore becomes his duty to see that the laws are faithfully executed. He has no power to disregard, amend or set aside laws as unjust or unconstitutional; for to do so would be to invest him with the lawmaking power—to make him an absolute and irresponsible power; to make him not the president of a republic, but the absolute monarch of the country, position to which the President does not aspire.

The President hitherto has been, and now is, using all the means in his power to suppress outrages in Kansas upon private rights, and to sustain and enforce law and order. The difficulties in Kansas have mainly arisen from a spirit of rebellion against the constituted authorities, and a determination to resist all authority and law; which, by its general dissemination, has subverted civil government and rendered the law powerless, and, by destroying the power of the law, has opened a general field for rapine, murder





and the whole catalogue of crimes to be committed with impunity, and to go unredressed.

The President has taken every effective measure to secure to the citizens of Kansas domestic tranquility and security against foreign aggression. The suppression of insurrectionary movements is within his power, but he cannot and will not attempt to control traitors to their country. He will protect with the national arm all who are disposed to gather around the **standard** of the law and to obey its behests. The President, conscious of having performed his whole duty, is at a loss to know by what authority your excellency claims to arraign him or to call upon him for an explanation.

Assuming that the general government has failed to perform its duty, you assert "that it is manifestly right of each of the states to adopt measures to protect its former citizens." You demand again and again the protection, but conclude with what seems to be the burden of all your griefs—not a demand for protection to citizens in Kansas, but a demand that the military force on the line of emigration into the territory be dispersed. The President cannot gratify you in this matter. He will not permit armed invasion from Missouri or Iowa, or any other source; peaceful emigration, he never has and never will interrupt.

The President is not disposed to except to the style of your address, when you say to him, "as the executive of Iowa I demand for her citizens in Kansas protection in the enjoyment of their property, their liberty, and their rights," but would suggest to your excellency that such language implies a right to enforce obedience and the power to compel it. Neither of these are intrusted to your excellency, and the President therefore pardons to your zeal what could not be forgiven to your good breeding.

In conclusion, you propose the following issue: "In the event of a non-compliance in my view, a case will clearly have arisen within the principle laid down by Mr. Madison in the Virginia resolutions of 1778, when it will be the duty of the states to interfere to arrest the progress of the evils in that territory."

It is not strange that a government with such limited powers as are conceded by the constitution of the United States and conferred by the constitution of Iowa upon you should overestimate himself. The doctrine that the executive of Iowa can protect her citizens beyond her borders, or that he has any authority beyond the limits of his state, is an absurdity.

The constitution defines the rights of all citizens of Iowa going to Kansas or elsewhere. They cannot carry there the laws or the protection of Iowa, any more than a citizen of a slave state can carry his slaves and hold them there. When he goes to Kansas, the constitution guarantees to him the protection of the laws of Kansas and all the rights which the citizens there enjoy. (Article 4, section 2, constitution U. S.)

The President, believing that a little reflection will convince your excellency that your jurisdiction of the citizens of Iowa is confined to the limits of your own state, still feels solicitous lest your excellency become excited and attempt some Quixotic redress, for the real or fancied wrongs of citizens of Iowa in Kansas, and therefore invites your attention to this clause in the constitution: Article 1, section 10. "No state shall, without the consent of Congress, lay any duty of tonnage, keep troops or ships of war in time of peace, enter into any agreement or compact with another state or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay."



Under the restriction of the constitution, the President hopes you will not undertake any rash or ill-considered enterprise of a warlike character without the limits of you own state, but that you will lend the influence of your example and your counsel to maintain law and order, in accordance with the constitution, and that you will become an efficient aid to him in faithfully discharging the sworn duties of his office.

With high consideration, I remain your obedient servant,

WILLIAM L. MARCY, Secretary of State.

To James W. Grimes, Governor of Iowa.

[From Leavenworth Herald, November 22, 1856.]

#### VISIT OF GOVERNOR GEARY TO LEAVENWORTH.

On Tuesday last, [November 18, 1856] Governor Geary was welcomed to Leavenworth by the mayor, who delivered a few appropriate remarks, as follows:

Governor Geary: Permit me, on behalf of my fellow citizens of Leavenworth city, to extend to you a most hearty welcome. As mayor of this young and growing city, allow me to greet you, and to express the opinion that you are sufficiently imbued with those true democratic, union-loving principles to cause you to administer the affairs of this territory in a manner calculated to render satisfaction to every patriot. You, sir, by the bold, rigorous and efficient steps which you have taken to restore peace in this distracted territory, have succeeded, and thereby placed its citizens under a deep and lasting debt of gratitude to you. Believing, sir, that your excellency will continue to use every exertion in your power to carry out those principles which will tend to advance the interest of this young and beautiful territory, to maintain law and order, and support the glorious constitution of our common country, it is with feelings of the most profound pleasure that I again extend to you a most cordial welcome and the hospitalities of our city.

#### GOVERNOR GEARY'S SPEECH.

Fellow Citizens: I have just completed an extensive tour of observation through the southern and western portions of this territory, and am happy to inform you that the benign influences of peace, which I have every reason to believe will be permanent, now reign throughout all its borders.

Solicitude for the continuance of this auspicious state of affairs is the only reason I have to offer for my presence among you upon this important occasion.

I am truly gratified to learn that most amicable and peaceful feeling animates the hearts of the large concourse of people this day assembled from all parts of the union to witness these land sales.

They are my sentiments, and I desire you to receive them, as I utter them, in the most conciliatory spirit.

The sale of land this day is by virtue of a treaty with the Delaware Indians, the United States making the sale, as the trustee for the Indians.

Justice to the actual bona fide settler and the Indian is the purpose of the government.

Upon the opening of this territory for settlement, many of our citizens came here, settled, and improved these lands. These men left their homes in the states and brought with them their energy, industry, skill, and capital. Through many privations, and in spite of almost insurmountable difficulties,



they have extended our frontier, erected homes for their families, planted fields and fenced them, and by their persevering labor have given value and consequence to these broad acres.

These lands, now appraised at from \$1.25 to \$10 per acre were, previous to the advent of these noble and hardy pioneers, worth but \$1.25 per acre. I also understand that the United States government, the trustee for the Indians, tacitly permitted this settlement and expenditure of labor and capital, by never having given the settlers notice to quit.

These premises being granted, it is, in my opinion, the duty of the government to protect the bona fide settler in the enjoyment of his equitable rights, and to see that he is not deprived of the fruits of his honest labor.

I am, therefore, in favor of assuring to the actual settler his title to the land, upon his paying its appraised value, as fixed by the government.

I then say, unequivocally, that I earnestly sympathize with the honest, bona fide settler, and I invoke all citizens, as they value justice and the peace of this territory, to permit the actual settler quietly to take his land, upon payment of the value fixed upon it by the government.

While I recognize the claim of the occupant to the fullest extent, under all the principles of justice and equity, to the land whose value is chiefly owing to his possession and labor, I must remind him that it is not a right according to the technicalities of law, and he should not endeavor to enforce this equitable right by force and violence. This would put him in the wrong before the bar of public opinion, which now universally gives him support, and present him as a wrong-doer instead of an honest, law-abiding citizen. Let me then pray you to rest on the good sense and justice of the people, both citizens and strangers, and be assured that all the influence of those in authority, as far as I can answer for them, is thrown into the scale of your claims.

This position can do no injustice to the Delaware Indians. Their magnificent reserve, 40 miles long by 10 wide, with a population of but 1,000, is more than ample for all useful agricultural purposes, and the purchase-money of these trust lands will enable them to cultivate and improve what is left. Indeed, the value of the reserve will be more than quadrupled by the settlement and improvement of these trust lands. The enterprising and industrious squatter has already given value, and afforded a market and purchasers for land which otherwise would have been comparatively valueless. Thus, the Indian gets an increased price for his land, which is useful to him, while the actual settler and laborious cultivator of the soil equitably receives the fruits of his hard-earned toil.

Nothing will assist me so much in rendering permanent and enduring the peace which now gladdens this beautiful country as the sale of the public lands, and their ownership by an honest, enterprising, industrious, union-loving population. I am earnestly solicitous to see every citizen who desires to make his home among us the proprietor of 160 acres of land. This policy will insure peace, bring prosperity and wealth, develop the moral sentiments of the citizens, and make us a model people, and, in the not distant future, a model commonwealth.

A portion of this territory, including an area of about 200 miles square from the Missouri river westward, possesses all the elements of agricultural and mineral wealth. For richness of soil and salubrity of climate, for its finely timber-fringed streams and excellent building stone, it is unsurpassed by any portion of this continent.



Owing to the extreme productiveness of the soil, it is capable of supporting, with but little labor, an immense population, and, as fast as the Indian title is extinguished to the reserves within its limits, will be populated by a thriving and industrious people.

There will be plenty of room for all good people who desire to cast their lots among us, and, if I mistake not the people of Kansas, they mean to make no room for the bad.

I will cooperate with the citizens of this territory, so long as I am clothed with the executive authority, in rendering Kansas too hot for bandits and robbers, and affording full protection for life, liberty and property to every good citizen.

To accomplish these beneficial results, I must rely upon the virtue, intelligence and patriotism of the people. Fellow citizens, will you aid me this day and during the progress of these land sales to preserve the peace and insure the prosperity of this territory? I know you will.

[Leavenworth Herald, November 22, 1856.]

---

TERRITORIAL UNIVERSITY MEETING AT LAWRENCE. GOVERNOR GEARY UNABLE TO ATTEND.

Executive Department, Lecompton, Kansas Territory,  
December 24, 1856.

Mr. W. F. M. Army: Dear Sir—I regret extremely that it will be impossible for me to accept the invitation of the citizens of Lawrence, so politely conveyed me by yourself, to attend the meeting they propose holding to-morrow, for the purpose of taking the preliminary measures to establish a territorial university.

The project meets my hearty approbation, and I shall rejoice to see the citizens of the territory, without distinction of party, unite in petitioning Congress for such an endowment of public land as will enable us to establish in this, the geographical center of the union, such an educational institution as will be an honor to the country and a constant source of blessing to our children.

I shall be most happy to unite with the people of Kansas in any measures which shall most effectually secure this desired object. With great respect, I am, your friend and obedient servant,

JNO. W. GEARY.

[H. of L., Jan. 3, 1857.]

---

EXPENDITURES FOR KANSAS MILITIA.

CAPTAINS WALLIS'S, DONALDSON'S AND WALKER'S COMPANIES.

MESSAGE OF THE PRESIDENT.

To the Speaker of the House of Representatives:

In compliance with a resolution of the house of representatives of the 22d ultimo, in relation to information with regard to expenditures and liabilities for persons called into the service of the United States in the territory of Kansas, I transmit the accompanying report of the secretary of war.

FRANKLIN PIERCE.

Washington, January 12, 1857.

War Department, Washington, January 10, 1857.

On the 24th ultimo, the secretary of state referred to this department a copy of the resolution of the house of representatives of the 22d of the same





month, calling upon the President for certain information with regard to expenditures and liabilities for persons called into the service of the United States in the territory of Kansas.

The reports of the quartermaster, paymaster, and adjutant-generals, which I have the honor to submit herewith, contain all the information in this department at this date on the subject of the resolution.

Very respectfully, your obedient servant,

JEFFERSON DAVIS, Secretary of War.

The President.

Paymaster-General's Office, December 30, 1856.

Sir: I return herewith the rolls of Captains Wallis, Donaldson, and Walker's companies of Kansas militia, and, agreeable to your request, have to state that, under the existing law for the payment of militia (act of March 19, 1836), the amount required for their payment would be \$7,848.76. But it appears that one company has been paid as cavalry, and if this is sanctioned it will require a further sum of \$260 to cover the payment.

Very respectfully, your obedient servant,

BENJAMIN F. LARNED, Paymaster-General.

Colonel S. Cooper, Adjutant-General United States Army.

Adjutant-General's Office, Washington, January 5, 1857.

Sir: In compliance with your instructions, and in answer to the resolution of the house of representatives of the 22d ultimo, so far as this office is concerned, I have the honor to report that muster-rolls of but three companies of militia called into the service of the United States during the recent disturbances in Kansas Territory, have been received at the department. The accompanying letter from the paymaster-general gives the amount required for their payment.

I am, sir, very respectfully, your obedient servant,

S. COOPER, Adjutant-General.

Hon. Jefferson Davis, Secretary of War.

Quartermaster-General's Office, Washington City, January 9, 1857.

Sir: In obedience to your instructions, and in answer to so much of the resolution of the house of representatives of the 22d ultimo, asking information in relation to the affairs of Kansas as relates to this office, I have the honor to report that the accounts, thus far received at this office, show no expenditures of money for, nor issue of property to, the forces referred to in the resolution, though it is understood, unofficially, that property was furnished for the use of the Kansas volunteers in the fourth quarter of the last calendar year, the accounts for which quarter have not been received, and are not yet due.

I return the resolution, and have the honor to be, sir, your obedient servant,

THOS. S. JESUP, Quartermaster-General.

Hon. Jefferson Davis, Secretary of War, Washington City.

[34 Cong., 3d S., Ex. Doc. 34.]

---

#### ANOTHER MESSAGE AND PAPERS ACCOMPANYING.

To the House of Representatives: In further compliance with the resolution of the house of representatives of the 22d ultimo, calling upon me for "statements of the amounts of money paid and liabilities incurred for the pay, support and other expenses of persons called into the service of the United States in



the territory of Kansas, either under the designation of the militia of Kansas, or of posses summoned by the civil officers in that territory, since the date of its establishment; also, statements of the amounts paid to marshals, sheriffs and their deputies, and to witnesses, and for other expenses in the arrest, detention and trial of persons charged in said territory with treason against the United States, or with violations of the alleged laws of said territory," I transmit a report from the secretary of the treasury, with accompanying documents.

Washington, January 21, 1857.

FRANKLIN PIERCE.

Treasury Department, January 20, 1857.

Sir: To aid you in complying with the resolution of the house of representatives of the 22d ultimo, "requesting the President to cause to be communicated to the house statements of the amounts of money paid and liabilities incurred for the pay, support and other expenses of persons called into the service of the United States in the territory of Kansas, either under the designation of the militia of Kansas or of posses summoned by the civil officers in that territory, since the date of its establishment; also, statements of the amounts paid to marshals, sheriffs and their deputies, and to witnesses, and for other expenses in the arrest, detention and trial of persons charged in said territory with treason against the United States, or with violations of the alleged laws of said territory," I have the honor to submit a report of the comptroller of the treasury of the result of his examination and inquiries upon the subject, together with the documents accompanying the same. But it is proper for me to explain, that the results communicated by the comptroller are derived from the accounts, and include only the expenses which had been incurred and payment for which had been made at the time these accounts were rendered, and that it is to be presumed other expenses have been incurred not yet known to the department, and which will in time appear in accounts to be hereafter rendered.

It appears to be understood that some bodies of men have been taken into service in Kansas in support of the civil authorities, to enforce the laws and preserve the peace, in the form of militia companies or civil posses, but the fact does not appear, from any accounts as yet received at the treasury: whether the employment of such bodies of men, or any expense likely thereby to be incurred on behalf of the United States, has been reported to the state or war departments, I am not able to say. I am, very respectfully,

The President of the United States.

JAMES GUTHRIE,  
Secretary of the Treasury.

Treasury Department, Comptroller's Office, January 7, 1857.

Sir: The house of representatives, on the 22d of December, on motion of the Hon. Israel Washburn, jr., adopted a resolution, "that the President be requested to cause to be communicated to this house statements of the amounts of money paid and liabilities incurred for the pay, support and other expenses of persons called into the services of the United States in the territory of Kansas, either under the designation of the militia of Kansas or of posses summoned by the civil officers in that territory, since the date of its establishment; also, statements of the amount paid to marshals, sheriffs and their deputies, and to witnesses, and for other expenses in the arrest, detention and trial of persons charged in said territory with treason against the United States, or with violations of the alleged laws of said territory." A copy thereof was "referred to the comptroller for such information as may be in his power."

This office revises the accounts of the first auditor, whose duty it is to report upon all civil expenses, if they had been paid, or liabilities incurred, within the



specifications of that branch of the resolution, and chargeable against the United States; and he was requested to communicate all the information in his office touching the subject of the resolution. His letter of this date addressed to you will accompany this.

He says there are no evidences of such expenditures in his office, nor of liabilities therefor. The second comptroller revises the accounts of the second and third auditors, who settle the accounts arising from military expenses, whether incurred for the regular army or militia in the states or territories.

On the 14th instant I addressed a letter to the second comptroller, accompanied by a copy of said resolution, and requested him to furnish this office with all information touching the subject of said resolution within his office, or within the offices of the auditors whose accounts he revises. A copy is herewith transmitted.

The answers of the second comptroller, second and third auditors will accompany this. Neither has any information touching the subject of inquiry.

An account of the Hon. Wilson Shannon, late governor of Kansas, is in this office under examination, and Vouchers Nos. 3, 6, 12, and 15, amounting to \$85.20, contain expenditures called for by the resolution. Voucher No. 4 contains expenditures of the like character to the amount of \$38.97; total, \$124.17.

The last designated voucher (No. 4) amounts in the aggregate to \$56.05, but \$18.08 are items for the executive office, of such a character as he would necessarily purchase, aside from any disturbance in the territory. Copies of said vouchers will accompany this.

I have no knowledge of any other expenditures within the purview of the resolution, or liabilities therefor, unless the following is an exception as to liabilities:

On the 12th instant the chief clerk of the interior department handed me a letter addressed to the secretary by Mr. Whitfield, the delegate from Kansas Territory, with an account in favor of William S. Preston, as deputy marshal in said territory, amounting to \$530, for certain services therein stated; and my opinion was requested upon the proposition whether it could be paid by either law or precedent, from the judiciary fund. On the same day I replied to the inquiry in the negative. A copy thereof will accompany this.

Most respectfully submitted by yours, ELISHA WHITTLESEY.

Hon. James Guthrie, Secretary of the Treasury.

---

List of papers referred to in the report of the comptroller to the secretary of the treasury in regard to the resolution of the house of representatives of 22d December, 1856, calling for certain expenses paid and liabilities incurred in the territory of Kansas:

- No. 1. Letter of first auditor, dated January 17, 1857.
- No. 2. Letter to second comptroller, dated January 14, 1857.
- No. 3. Reply of second comptroller, dated January 16, 1857.
- No. 4. Reply of second auditor, dated January 15, 1857.
- No. 5. Reply of third auditor, dated January 15, 1857.
- No. 6. Vouchers Nos. 3, 6, 12, and 15, in account of Wilson Shannon.
- No. 7. Voucher No. 4, in account of Wilson Shannon.
- No. 8. Letter of comptroller to honorable secretary of the interior relative to account of William S. Preston, and dated January 12, 1857.
- No. 9. A copy of house resolution, dated December 22, 1856.



## No. 1.

Treasury Department, First Auditor's Office, January 17, 1857.

Sir: In reply to the resolution of the United States house of representatives, bearing date of the 22d ultimo, requesting the President to communicate to that body statements of the amounts of money paid and liabilities incurred by the civil authorities of the territory of Kansas since the date of its establishment, I have the honor to report, that there are no vouchers or other evidences of the payment of money in my office "for the pay, support and other expenses of persons called into the service of the United States in the territory of Kansas, either under the designation of the militia of Kansas, or of posses summoned by the civil authorities in that territory since the date of its establishment," nor are there any vouchers in my office for "amounts paid to marshals, sheriffs and their deputies, nor to witnesses, and for other expenses in the arrest, detention and trial of persons charged with treason in said territory against the United States, or with violations of the alleged laws of said territory."

Very respectfully, your obedient servant, T. L. SMITH, Auditor.

Hon. James Guthrie, Secretary of the Treasury, Washington, D. C.

## No. 2.

Treasury Department, Comptroller's Office, January 14, 1857.

Sir: I hand to you herewith a copy of a resolution of the house of representatives of the Congress of the United States, adopted on the 22d of December last, calling upon the President of the United States for information in regard to expenses or liabilities incurred in the territory of Kansas, either under the designation of the militia of Kansas, or of a posse summoned by the civil officers in that territory, since the date of its establishment.

The secretary of the treasury having referred the resolution to this office for a report, be pleased to state whether any accounts have been revised by you for expenses or liabilities incurred within terms or true intent and meaning of the resolution, and whether any such accounts, liabilities or claims are in the possession of the proper treasury officers whose accounts you revised.

Most sincerely yours, ELISHA WHITTLESEY.

J. M. Brodhead, Esq., Second Comptroller.

## No. 3.

Treasury Department, Second Comptroller's Office, January 16, 1857.

Sir: Your letter of the 14th instant, inclosing a copy of the resolution of the house of representatives of the 22d ultimo, requesting the President to cause to be communicated to that house "statements of the amounts of money paid and liabilities incurred for the pay, support and other expenses of persons called into the service of the United States in the territory of Kansas, either under the designation of the militia of Kansas, or of posses summoned by the civil officers in that territory, since the date of its establishment," etc., was duly received. I referred your letter and the inclosed copy of the resolution to the second and third auditors, and now transmit to you copies of their reports on the subject, dated yesterday, to which I add the remark, that no account for any such expenses or liabilities as are referred to in the resolution aforesaid have been either allowed at or presented to this office.

Very respectfully, your obedient servant,

J. M. BRODHEAD, Comptroller.

Hon. E. Whittlesey, First Comptroller of the Treasury.





## No. 4.

Treasury Department, Second Auditor's Office, January 15, 1857.

Sir: I have the honor to return herewith the letter of the first comptroller, inclosing a copy of the resolution of the house of representatives, dated the 22d ultimo, calling upon the President for information in regard to expenses or liabilities incurred in the territory of Kansas, either under the designation of the militia of Kansas, or of a posse summoned by the civil officers in that territory, since the date of its establishment, and have to state that no information in relation to the above inquiry is on file in this office.

Very respectfully, your obedient servant, P. CLAYTON, Second Auditor.  
John M. Brodhead, Esq., Second Comptroller.

## No. 5.

Treasury Department, Third Auditor's Office, January 15, 1857.

Sir: I herewith return to you the letter of E. Whittlesey, Esq., comptroller of the treasury, accompanied by a copy of a resolution of the house of representatives, adopted on the 22d December last, in regard to expenses or liabilities incurred in the territory of Kansas, either under the designation of the militia of Kansas, or of a posse summoned by the civil officers of that territory, since the date of its establishment, which you referred to me, to be furnished with any information asked for that may be in this office, and have to inform you that it does not appear that any allowance on account of expenses or liabilities for the territory of Kansas has been made through this office, nor that any claim connected with the subject has been presented to this office.

Very respectfully, your obedient servant,

ROBERT J. ATKINSON, Auditor.

John M. Broadhead, Esq., Second Comptroller.

## No. 6.

Governor Wilson Shannon to Maxwell & Pearson, Dr. December 10, 1855. To hire of buggy and two horses and driver six days in going to Lawrence, during the troubles at that place growing out of resistance to the sheriff of Douglas county, charge, \$39.50; hire of horse for express to General Richardson during the above troubles, \$5.00; total, \$44.50. Received payment,

PEARSON & MAXWELL.

Governor Shannon to George Bluejacket, Dr. For the use and occupation of a house on the Wakarusa, used for his office, from the 6th of December to the 10th of same month, 1855, during the troubles with the people assembled in the town of Lawrence, \$10.00; also, for an express sent from the Wakarusa to Fort Leavenworth to Colonel Sumner, and piloting the same across the Kansas river, \$4.00; amount due, \$14.00. Received \$14.00, the amount of the above bill, from Wilson Shannon, governor of territory of Kansas, this 1st day of January, 1856

his  
GEORGE X BLUEJACKET.  
mark.

Attest: A. G. Boone, Wakarusa, December 6, 1855.

From the office of the united eastern, western, northern and southern lines, connecting St. Louis with New York, Boston, Philadelphia, Pittsburg, Cincinnati, St. Joseph, and New Orleans. Exchange Building, corner of Main and Olive streets.



Dated St. Louis,.....1856. To..... Received, St. Louis, June 27, 1856, of Wilson Shannon \$9.70, for telegraphic dispatch sent to his excellency Franklin Pierce, Washington city.

C. K. McGUNNEGLE, Jr., Receiver National Telegraph.

Territory of Kansas to Eastin & Adams, Dr. 1855. November. To printing 200 copies of Gov. Wilson Shannon's proclamation to the citizens of Kansas Territory, \$10.00; to advertising the same, seven squares, one week in the "Kansas Herald," \$7.00; total, \$17.00.

Received payment in full of Wilson Shannon, governor of Kansas Territory.  
Leavenworth City, July 16, 1856. EASTIN & ADAMS.

Territory of Kansas to A. G. Boone, Dr. 1855.—December 4.—To one ream letter-paper for executive office, \$5.00; 19.—To cash paid for telegraphing President of the United States; the line being down, the dispatch had to be carried by hand part of the way, \$35.47: 19.—Cash paid for candles, \$1.50; 19.—Cash paid for paper and envelopes, \$2.00; 19.—Cash paid for expenses at Wakarusa, during the disturbances at Lawrence, \$3.50; 27.—One ream cap paper for executive office, \$5.00; 28.—One box, 25c; 10 lbs. candles, 33c per lb., \$3.30. Total, \$56.05.

Received payment of Wilson Shannon, governor of Kansas Territory.

A. G. BOONE.

#### No. 8.

Treasury Department, Comptroller's Office, January 12, 1857.

Sir: The letter of the Hon. J. W. Whitfield, with the account of William S. Preston, and a deputation given to said Preston as special or deputy marshal in the territory of Kansas, were handed to me to-day by Mr. Kelly, with the request that I state by what authority of either law or precedent the account can be paid out of the judiciary fund.

It appears from a writing bearing date September 29, 1856, signed by J. B. Donaldson, United States marshal, that he appointed William S. Preston one of his deputies, with power to execute all legal process that might be placed in his hands to execute.

An oath was administered to Mr. Preston on the same day by Judge Cato, by which the said Preston promised faithfully to discharge the duties of deputy United States marshal to the best of his abilities. The oath is not in accordance with the form prescribed by the act of September 24, 1789, "to establish the judicial courts of the United States" (section 27, vol. 1, at page 87), but I do not consider this to be essential in the present case.

He charges the United States with the following services, for which he claims compensation:

October 10, 1856. To services rendered as special marshal, under an appointment of United States Marshal J. B. Donaldson, of date September 29, 1856, and herein filed, on the frontier, in arresting Colonel Eldridge's party of 254 persons, \$508.00; October 4, 1856.—To arrest of five persons for conducting Higgins's slave through the territory, \$10.00; mileage to frontier, 200 miles, 6 cents per mile. \$12.00; total, \$530.00.

Mr. Preston has verified his account by his oath. Judge Cato gives a certificate, "that from the oath of William S. Preston, deputy marshal, the account as it stands stated is correct, and the payment is recommended."

The duties of the marshal, as set forth in the said twenty-seventh section,



are, "to execute throughout the district all lawful precepts directed to him and issued under the authority of the United States"; and power is given to him to command all necessary assistance in the execution of his duty, and to appoint one or more deputies.

The papers do not show that any complaint was made that any law of the United States was violated, nor that any crime had been committed, nor that any warrant or writ had been issued.

The act of February 26, 1853, prescribes the fees to which the marshal is entitled for definite services, but it does not appear from the papers that Mr. Preston performed any act for which he is entitled to compensation by law.

The marshal, J. B. Donaldson, states he thinks that Mr. Preston ought to be paid; yet he says he cannot find any instructions or law that authorizes the payment to a marshal for making arrests without a warrant. He also states that the persons arrested were entering the territory in violation of law, and consequently were liable to be arrested.

From an examination of the facts and the law, my opinion is, that the account cannot be paid by the United States without the express sanction of Congress. The papers are returned. Most sincerely yours,

ELISHA WHITTLESEY.

Hon. Robert McClelland, Secretary of the Interior.

#### No. 9.

Resolved, That the President be requested to cause to be communicated to this house statements of the amounts of money paid, and liabilities incurred, for the pay, support and other expenses of persons called into the service of the United States in the territory of Kansas, either under the designation of the militia of Kansas, or of posses summoned by the civil officers in that territory, since the date of its establishment; also, statements of the amounts paid to marshals, sheriffs and their deputies, and to witnesses, and for other expenses in the arrest, detention and trial of persons charged in said territory with treason against the United States, or with violations of the (so-called) laws of said territory.

[34 Cong., 3d Sess., Ho. Ex. Doc. 45.]

### CASE OF WILLIAM T. SHERRARD.

#### FROM WILDER'S "ANNALS."

January 7.—Samuel J. Jones resigns, and his friend Wm. T. Sherrard is appointed, by the county board, sheriff of Douglas county. Governor Geary delays issuing a commission to Sherrard.

January 19.—The house asks Governor Geary, by resolution, why he does not commission Sherrard. Sherrard threatens the governor's life. Governor Geary asks General Smith for military protection: refused.

January 21.—Governor Geary sends to the house his reasons for not giving a commission to the drunken brawler, Bill Sherrard.

February 19, 1857.—The friends of Governor Geary hold an indignation meeting, Bill Sherrard having spit in the governor's face, and threatened to kill him. Sherrard and others attempt to break up the meeting: he shoots Jos. Shepard in the head and leg, and wounds John W. Jones, Governor Geary's clerk and brother-in-law. Jones then shoots and kills Sherrard. Young Jones is arrested by ex-Sheriff Jones. A company is formed to protect the prisoner and Governor Geary. [J. W. Jones is afterwards bailed, and absconds.]



## REPORT OF THE COMMITTEE ON THE JUDICIARY.

The committee on the judiciary, to whom was referred house bill No. 14, entitled "An act to declare valid the official acts of William T. Sherrard, and to make valid his appointment to the office of sheriff of Douglas county," would respectfully report that they have had the same under advisement, and have arrived at the conclusion, by reference to the several statutes now in force, that, at the time of the appointment of William T. Sherrard to the office of sheriff of Douglas county, there was not a board of county commissioners authorized to make such appointment; and to sustain this conclusion we refer to the laws bearing on the question. By the seventh section of "An act providing for the office of sheriff and prescribing his duties," it is provided that a vacancy occurring in the office of sheriff shall be filled by appointment by the tribunal transacting county business, and by the twenty-ninth section of "An act organizing probate courts," etc., the board of county commissioners is declared to be the tribunal transacting county business; and the last-mentioned act provides that a vacancy in the office of probate judge shall be filled by appointment by such board, but there is no provision in the statute authorizing such board or any other power to fill a vacancy in the office of county commissioner.

It is true the thirty-fourth section provides that the board may appoint agents and commissioners, but this evidently does not mean a member of their own body. It is provided by the organic act that the governor shall appoint all officers not otherwise provided for. There being no provision in the territorial statute for the appointment of county commissioners, the governor, and not the board, should fill vacancies in these offices. By reference to the journals of the last session of the legislature, we find that John M. Banks and George W. Johnson, together with John P. Wood, the probate judge, constituted the board for Douglas county. On a statement of the probate judge, now before us, we find that some time last summer Commissioner Johnson left the territory, and at a meeting of the board, some time in August or September, A. D. 1856, composed of Judge Wood and Commissioner Banks, the board declared a vacancy in Commissioner Johnson's office, and proceeded to fill the same by the appointment of a Mr. Spicer as a commissioner; and at a meeting of the board on the third Monday in October, composed of Judge Moore and Mr. Spicer, S. J. Jones resigned his office as sheriff, which was accepted, and the clerk was ordered to enter the resignation and acceptance of record, and proceeded at the same time to appoint Mr. Sherrard sheriff to supply the vacancy.

In connection with this branch of the subject, two points are presented: First, was there a board of county commissioners to which Jones could tender his resignation? We think not. As the board had no power to fill a vacancy in their own body, Mr. Spicer was not a member, and if there was no board to receive the resignation, there was certainly no board to make the appointment of Sherrard. Secondly, can the board, if full, accept the resignation of the sheriff? This board of commissioners is a creature of the statute, and has specially delegated powers, and no more. It is not specified to what power a sheriff shall resign, and the presumption would be that the resignation should be to the power that made him, and not the power which might have filled his vacancy. This presents at least a doubtful question. If these conclusions be correct, there existed legal grounds why the governor might have withheld a commission.

Then, presuming that the appointment was made in accordance with law, we deem the refusal of the governor to grant a commission to be the subject of judicial and not legislative investigation. And the departments of government





being separate and distinct—the executive, judicial, and legislative—neither department should interfere with the operations of the other.

Your committee deem it unnecessary to go further into the facts of the case, and are disposed to settle it on legal principles; they therefore recommend that the bill do not pass.

But while your committee have arrived at this conclusion, they cannot sustain the reasons assigned by the governor for his action in the premises. The character and qualifications of an appointee are questions to be determined by the appointing power; and the granting a commission, being a mere ministerial act, leaves no discretion with the governor, if the appointment has been legal. Now, we are willing to recognize the power of the chief executive to instruct the territorial governor to withhold the exercise of a duty enjoined on him by the law; and the granting of a commission to the several officers of the territory being imperative on the governor, under the organic act, we deem that he has no discretion left to him.

We would, however, recommend that there be additional legislation upon the subject of filling vacancies in certain offices of the territory.

All of which is respectfully submitted.

R. R. REES, Chairman.

[C. J. 1857, apx, p. 289.]

PETITION OF W. T. SHERRARD TO JUDGE LECOMPTE.

Territory of Kansas, County of Leavenworth.

To the Hon. Samuel D. Lecompte, Judge of the First District Court for the First Judicial District of the Territory of Kansas:

Your petitioner, William T. Sherrard, of Douglas county, Kansas Territory, respectfully represents unto your honor, that heretofore, to-wit, on the 16th of December, A. D. 1856, the resignation of Samuel J. Jones, late sheriff of Douglas county, and territory aforesaid, having been tendered to and accepted by the board of county commissioners of Douglas county, Kansas territory, said board at their last meeting, to wit, on the 16th of December, A. D. 1856, proceeded then, and in Lecompton, their place of meeting, to appoint a successor (as provided by the statutes of Kansas Territory, chapter 150, and page 713) to the office of sheriff of said county of Douglas, and did appoint to fill the vacancy caused by the resignation of Samuel J. Jones your petitioner, William T. Sherrard, which appointment, being duly certified as the law directs by the clerk of said board of county commissioners, a copy of which certificate is herewith filed, and pray to be made a part of this petition, was sent to John W. Geary, the governor of said territory, as provided further by said statutes of Kansas Territory. But notwithstanding this, and further, that being often requested to make out the commission of your petitioner, as the aforesaid law requires, he still neglects and refuses so to do, for reasons unknown to your petitioner. And therefore he prays that your honorable court may issue the writ of mandamus, directed to said John W. Geary, governor of Kansas, compelling him to make out said commission; and praying further, such other and further such relief as your honor may deem meet for the case. And as in duty bound, etc. Leavenworth city, Leavenworth county, K. T., January 2, A. D. 1857.

WILLIAM T. SHERRARD.

Subscribed and sworn to before me, this 2d day of January, A. D. 1857.

WILLIAM E. MURPHY, J. P.

I, R. C. Bishop, clerk of the board of county commissioners in and for the county of Douglas, and territory of Kansas, do certify that William T. Sherrard



was appointed sheriff of the aforesaid county on the 16th day of December, A. D. 1856, by the board of county commissioners, and that his election was certified to the governor of said territory.

Witness my hand and the seal of said court annexed, the 30th day of December, A. D. 1856. [Seal.]

R. C. BISHOP, Clerk.

[C. J., 1857, Apx.]

United States of America, Territory of Kansas, sct.

The above petition, being submitted to me, and the petitioner being heard by counsel, upon consideration mandamus is refused upon defects in the allegations of the bill, and of the certificate of the clerk of the county commissioners of Douglas county; but motion being made for leave to amend the said bill, leave was granted until Tuesday, the 13th day of January next.

Done this 6th day of January, 1857.

S. D. LECOMPTE, Judge First District Court, etc.

[C. J. 1857, Apx., p. 291.]

Territory of Kansas, Douglas County, sct.

To the Hon. Samuel D. Lecompte, Judge of the First District Court for the First Judicial District of the Territory of Kansas:

The petition of William T. Sherrard, of Douglas county, Kansas Territory, most respectfully represents unto your honor, that whereas, heretofore, to wit, on the 6th day of January, A. D. 1857, he presented unto your honor, through his counsel, an original petition for the issuance of the writ of mandamus, to be directed to John W. Geary, governor of Kansas Territory, for the purpose of compelling him, the said Geary, to issue and make out the commission of your petitioner as sheriff of Douglas county, Kansas Territory, in accordance with the provision of the organic act of Congress organizing the territories of Kansas and Nebraska, founding his said original petition on the ground that he, your petitioner, was, on the 16th of December, A. D. 1856, legally appointed by the board of county commissioners of Douglas county, Kansas Territory, as the sheriff of Douglas county, Kansas Territory, as provided for by the statutes of the said territory of Kansas; but which petition, on being filed in the office of the district clerk for the first judicial district of the territory of Kansas, and afterwards by counsel presented to your honor, was refused by your honor, on the 6th of January, A. D. 1857, for the reason that defects existed in the allegations of the bill, and of the certificate of the clerk of the county commissioners of Douglas county; on which motion was made for leave to amend the said bill, which leave was granted until the 15th of January, A. D. 1857:

Now, therefore, your petitioner, William T. Sherrard, of Douglas county, Kansas Territory, by way of amended or supplemental petition to the one above referred to, most respectfully represents unto your honor, that heretofore, to wit, on the 29th day of August, A. D. 1855, one Samuel J. Jones was by the legislature of the territory of Kansas elected and appointed to the office of sheriff of Douglas county, Kansas territory (as will appear by reference to the journals of said legislature), and was duly commissioned as provided by law, the original commission of whom is hereto appended, and prayed to be made a part of this amendatory or supplemental petition, and marked "Exhibit A," that he was qualified or sworn as sheriff of said county, as will appear by said commission, and that he gave such bond as was required, as will appear by reference to the records of the court of county commissioners



of Douglas county. He further represents, that said Jones prosecuted the discharge of his duties as sheriff of said county of Douglas until some time in the month of December, A. D. 1856. Your petitioner further represents, that during the said month of December, A. D. 1856, said Jones tendered his resignation to the board of county commissioners of Douglas county, and that said resignation was duly received, as will appear by the record of said board of county commissioners of Douglas county.

Your petitioner further charges, that at the last regular meeting of said board of county commissioners, to wit, on the 16th of December, A. D. 1856, an election was held by said board for the appointment of a sheriff, to fill the vacancy occasioned by the resignation of said Jones, as above mentioned, and that, at that election above named, your petitioner was legally and duly appointed, as provided for by the statute laws of Kansas Territory, to which reference is hereby made, which appointment will appear by the records of said board of county commissioners, a certified copy or transcript of which is herewith presented, and marked "Exhibit B."

Your petitioner further charges, that the clerk of said board of county commissioners, in accordance with the duty prescribed by the laws of the territory of Kansas, made out and transmitted to John W. Geary, governor of Kansas Territory, a certificate of the appointment of your petitioner to the office of sheriff of Douglas county. A certificate or affidavit of the making out and transmitting to said Governor Geary the certificate of the appointment of your petitioner to said office of sheriff is hereto appended, and marked "Exhibit A," and is included in the transcripts of said record.

Your petitioner further represents, that for the space of several days he awaited the pleasure of said Governor Geary to make out his commission as sheriff, but that he neglects so to do, and that after so awaiting for several days, he applied personally to said Governor Geary for his commission, as above referred to; but that, notwithstanding your petitioner often requested, both verbally and by letter, said Governor Geary to issue his said commission, he neglected and refused so to do, contrary to the duty marked out for him by the law of Congress organizing the territories of Kansas and Nebraska, and defining the powers and duties of the executives of said territories; and your petitioner further charges, that said Governor Geary still neglects and refuses to make out your petitioner's commission, contrary to his bounden and sworn duty. And he therefore prays, having no other relief, that the writ of mandamus may issue from your honorable court, directed to said John W. Geary, governor of Kansas Territory, commanding him to appear and answer to your honorable court why a peremptory mandamus shall not issue; commanding him, the said Governor Geary, to make out said commission; and he further prays, that judgment may be rendered against said Governor Geary for damages accruing to your petitioner on account of said governor's refusing to make out said commission, and for such other relief as to your honor may seem just and meet. And as in duty bound shall ever pray, etc.

WILLIAM T. SHERRARD.

Sworn to and subscribed before me, this 12th day of January, 1857.

JAMES R. WHITEHEAD, Clerk.

By W. L. KUYKENDALL, D. C.



## Exhibit A.

United States of America, Territory of Kansas.

The Governor of the Territory of Kansas, to all whom these presents shall come, greeting:

Know ye, that the legislative assembly of the territory of Kansas, having in joint session elected Samuel J. Jones to the office of sheriff in and for the county of Douglas, for and during the term prescribed by law:

Now, therefore, I, Daniel Woodson, acting governor of the territory of Kansas, by virtue of the authority in me vested by law, and reposing a special trust and confidence in the integrity, ability and diligence of the said Samuel J. Jones, do hereby commission him to the office aforesaid, for and during the term aforesaid.

In testimony whereof, I have hereunto subscribed my hand, and caused to be affixed the seal of the territory aforesaid. Done at the Shawnee manual labor school, this 27th day of August, A. D. 1855. [Seal]

DANIEL WOODSON, Acting Governor.

United States of America, Territory of Kansas.

I, Samuel J. Jones, do solemnly swear upon the holy evangelists of Almighty God, that I will support the constitution of the United States, and that I will support and sustain the provisions of an act entitled "An act to organize the territories of Nebraska and Kansas," and the provisions of the law of the United States commonly known as the fugitive-slave law, and faithfully and impartially, and to the best of my ability, demean myself in the charge of my duties in the office of sheriff. So help me God.

SAMUEL J. JONES.

Sworn to and subscribed before me, this 3d day of September, A. D. 1855.

DANIEL WOODSON, Secretary Kansas Territory.

## Exhibit B.

Monday, December 15, 1856.—No board being present, Hon. John P. Wood adjourned the court until the 16th instant.

December 16, 1856.—The board met pursuant to adjournment. Present: Hon. John P. Wood and J. M. Spicer. The board was organized by proclamation of the sheriff at the court-house door. The board received the resignation of Samuel J. Jones, sheriff of Douglas county, to take effect this day. The board appointed William T. Sherrard to the office of sheriff of Douglas county, in place of Samuel J. Jones, resigned.

I, R. C. Bishop, clerk of the board of county commissioners in and for the county of Douglas, territory of Kansas, do certify, that the above is a true transcript of the docket of the board of county commissioners sitting in and for the county of Douglas and territory of Kansas, on the 15th and 16th of December, 1856, relative to the appointment of William T. Sherrard to the office of sheriff.

In witness whereof, I hereunto sign my hand, and affix seal of the aforesaid court, at Lecompton, the 11th day of January, A. D. 1857. [Seal.]

R. C. BISHOP, Clerk.

I also certify that I certified the appointment of William T. Sherrard, as sheriff of the aforesaid county, and directed it to John W. Geary, governor of Kansas Territory.

R. C. BISHOP, Clerk.





United States of America, Territory of Kansas, sct.

The within application, submitted to me in vacation, is refused, not considering that I have any power in vacation to issue the writ. All other points are undecided.

S. D. LECOMPTE, Judge First District Court.

[C. J. 1857, Apx., p. 292.]

---

#### REPORT OF COMMITTEE.

The committee on judiciary and criminal jurisprudence, to whom was referred house bill No. 14, entitled "An act to declare valid the official acts of W. T. Sherrard, and to make valid his appointment to the office of sheriff of Douglas county," having had the same under consideration, beg leave to make the following report:

Your committee deem it proper that they should briefly refer to the reasons which prompted the introduction of the bill on which we are called to report.

By a certified transcript from the office of clerk of the county court, which has been inspected by us, we find that on the 16th day of December, 1856, Samuel J. Jones resigned the office of sheriff of Douglas county, Kansas Territory, and that Wm. T. Sherrard was duly appointed in his place; and it also appears by other evidence that he, some days thereafter, applied to the governor for his commission, and was refused.

In the deliberate opinion of your committee, it was the duty of the governor to have issued the commission when evidence of the appointment was presented to him, and that his refusal so to do was a gross violation of law, and an unwarrantable assumption of power.

Your committee would be slow to make such a charge against the chief executive officer of the territory were they not fully satisfied of its truth, and if the assumption of power on his part was not at war with not only the organic act and the laws of the territory, but in fact with the fundamental principles of our government, and might prove subversive of the liberties of the people.

We hold that the duty of the governor was purely ministerial in its character, and would refer to the several sections regulating the subject.

The twenty-fifth section of the organic act declares "that all township, district and county officers, not herein otherwise provided for, shall be appointed or elected, as the case may be, in such manner as shall be provided for by the governor and legislative assembly of the territory of Kansas"; and the twentieth section of the same act provides that the governor "shall commission all officers who shall be appointed to office by the laws of the said territory, and shall take care that the laws be faithfully executed." From these two sections, it will be observed that the organic act empowered the legislative assembly to provide for the appointment of sheriffs, and that it is the duty of the governor to commission them.

In obedience to the command of the law, the legislative assembly at its last session provided that "if any vacancy happens in the office of sheriff, such vacancy should be filled by appointment by the tribunal transacting county business, for the unexpired term" (see Statutes Kansas Territory, ch. 150, sec. 7), and the first section of the same chapter declares that the sheriff "shall be commissioned by the governor."

No objection has been urged by the governor to the power of the tribunal transacting county business to make such an appointment, nor do we think that any could be successfully urged against it; but the refusal seems to be based upon the ground that the governor has the right to determine the propriety thereof, from which we totally dissent. The language of the law is imperative. It declares that he shall commission all officers who may be appointed to office



under the laws of the territory. Here, then, is a clear and unequivocal declaration of law as to the duty of the governor, and there need be no resort to legal deductions to define and establish the same; but even if we were left to such a mode to arrive at the correct rule, we fully believe we would be sustained in declaring his functions purely ministerial, and that he should have issued the commission; for the well-received rule of law is, that the functions of an executive officer are in the main ministerial, and that if he have the judicial power of determining, it must have been specifically defined.

We deny that the law gives him any such right, and assert that the power of appointment in this instance was vested in the county court.

We scarcely need refer to the opinion of the highest court of the land to sustain us in asserting that a commission is simply an evidence of appointment, and that the act of issuing it is purely ministerial.

Your committee feel called upon to express their surprise at the singular communication which has been presented to the house by the governor, in which he gives his reasons for refusing the commission in question, and can but look on it as a gross assault upon the character of a citizen of our territory.

In that communication, the right of this house to call upon the governor for the reasons of his refusal to issue the commission is distinctly denied; but still he proceeds to furnish the reasons, if such they could properly be styled, by which he was governed. After denying the right of the house to call upon him, we hold that every assertion of that communication was gratuitous and utterly uncalled for.

Among other things in that communication to which your committee deem it necessary to refer, is the statement substantially made, that he was instructed by the source whence he derived his appointment, to exercise a discretion as to whom he would or would not commission to office.

Your committee are slow to believe that the chief magistrate of this great republic, with a world-wide renown for its proud and lofty position among the nations of the earth, should have ever attempted to delegate to a territorial governor a power he himself never possessed.

The absence of all evidence tending to show that the tribunal transacting county business have ever attempted to revoke or rescind their appointment is of itself satisfactory evidence to your committee that they have seen no reason to change their opinion of its propriety, notwithstanding the intimations of the message.

Your committee, for their guidance, have had handed to them a written statement, under oath, of Wm. T. Sherrard, defending himself against charges made against him by his excellency in the communication before alluded to, which statement is hereto annexed, and your committee request that it may be made a part of this report.

In conclusion, your committee, believing that nothing but a wholesome check would be placed upon the executive authority by the passage of this act, report it back to the house, with a recommendation to that effect, so that the laws may be enforced according to the act of Congress and of the legislative assembly.

[H. J., Jan. 23, 1857, p. 76.]

D. J. JOHNSON, Chairman.

Wednesday, January 21, 1857.

To the Judiciary Committee of the House of Representatives of Kansas Territory:

Gentlemen—In reply to the special message of his excellency John W. Geary relative to my appointment to the office of sheriff of Douglas county, permit me to submit the following statement for your consideration:



On the 16th day of December last, I was appointed, in accordance with the laws of the territory, sheriff of Douglas county, by the tribunal transacting county business.

On the 18th day of December, I called at the executive office, and inquired of the governor if the appointment had been certified to him by the clerk of the county tribunal. He replied that it had. I then respectfully requested that he would cause the commission to be made out as soon as possible; adding at the same time, as a reason for the request, that I had understood that there were many writs which ought to be served at once, and that there was at that time no officer in the county to execute them.

The governor appeared not to appreciate the force of these reasons, and even betrayed some excitement at the suggestions I had made. In the course of a rather warm conversation that ensued, he said, "Before I make this appointment, I wish to know whether you expect to act inimicably to me, or not?" I expressed my surprise at the question, and said that it seemed to me to imply that he desired to impose conditions on me before he discharged a duty required of him by the law; if such was the meaning, I had only to say that, in executing the office to which I had been appointed, I should endeavor to be guided only by my oath and my duty, and whilst I did this, should certainly pay no regard to him, his wishes, or opinions.

The conversation continued for some time longer, and at the close of it he said that the commission should be made out between that time and the next day. Some days after, having heard nothing in the meanwhile from the governor, I wrote him a formal note demanding my commission, and informing him that, in case of refusal, I should be constrained to use legal means to compel him to issue it.

Before sending it, however, I learned from R. H. Bennett that, in an interview he had had with the governor, he had been informed by him that he (the governor) had understood that I was about to apply for a mandamus; that this was unnecessary, as he had never intended to refuse to issue the commission, and that he would have kept his promise but for the absence of the secretary of the territory; adding that, as soon as the secretary returned, the commission should be made out. Hearing this, I delayed sending the letter until the 29th, when (the secretary having returned on the 26th) I mailed it, merely adding postscript, saying that I should, without further delay, pursue the course I had indicated in the letter.

I now come to that part of the letter which charges me, upon the information "of many respectable citizens of Lecompton and of Douglas county," with having been engaged in several fights, shooting affairs, &c. The only shooting affair in which I have ever been engaged in my life occurred on the 5th of December, 11 days before my appointment by the commissioners' court, when the facts were as notorious as they ever have been since, and therefore could not have been alleged by "many good citizens," or by "members of the tribunal from which I received my appointment," as a reason why I should not be commissioned by the governor. For, if it was a justification of the governor, to whom the laws gave no discretion in the matter, in refusing the commission, was it not a proper ground for the tribunal, with whom of course it was entirely discretionary, to have refused to make the appointment? The only other affair to which the governor could possibly have alluded occurred on the 26th of December, after my first demand for my commission, and after such a delay as amounted to a refusal, and cannot, therefore, be assigned as the cause of that refusal.

Although I do not now design to go into a defense of what I did upon those



occasions, yet I will merely say, that I have never at any time shrunk from a legal investigation, and am now willing to submit my conduct to the decision of a jury of my countrymen, conscious that I have only exercised the right of every freeman to defend his reputation and person, and that I can substantiate this by testimony.

To the other grossly injurious personal reflection of the governor I have at this time no reply to make, not regarding myself as accountable to him for my official or personal conduct; I shall enter into neither explanation or defense. I shall, however, not have much fear of the judgment of that portion of the public to which either his excellency John W. Geary or myself are known.

I am, gentlemen, with great respect, your obedient servant,

W. T. SHERRARD.

Sworn to and subscribed before me, this 22d January, 1857.

S. G. CATO, Associate Justice of the Supreme Court, K. T.

Lecompton, K. T., January 24, 1857.

Mr. William T. Sherrard: Sir—While I seriously regret that there is any trouble growing out of the appointment by the county court in regard to yourself, I feel it due both to the parties interested and myself to say, that I have not at any time associated with any gentleman to request Governor Geary not to commission you. I have not had an opportunity to examine the message referred to; therefore, I will state in substance what I did say to Governor Geary in a private conversation, in presence of Mr. Bennett, of the "Union," as I believe. It was this: that I seriously regretted that you had become involved in those difficulties, as I believed you qualified for the office, and I hope that the matter could be got along with amicably yet.

Governor Geary did not intimate to me his intention to refuse you a commission.

Yours truly, JOHN P. WOOD.

[Council J., 1857, appendix, p. 302.]

Lecompton, January 25, 1857.

J. M. Tuton, Esq.: Sir—In a communication of John W. Geary, governor of this territory, on Wednesday last, to the house of representatives, in reply to a resolution of that body calling on him to assign his reasons for refusing to commission me as sheriff of this county, he makes, upon the authority of "many respectable citizens," including the members of the tribunal from which I received my appointment, charges grossly reflecting upon my personal character.

The governor further says—and in this also appears my implication to include the members of the county tribunal—that, after my appointment, "many good citizens of this place and Douglas county" had joined in a remonstrance against his commissioning me.

As you are, and were at the time of my appointment, one of the members of the tribunal from which I received it, I respectfully request that you will state whether you have ever made such representations or joined in such remonstrance. I have addressed a similar note to each of the other members of the court.

I am, sir, your obedient servant,

WILLIAM T. SHERRARD.

[Council Journal, 1857, Apx., p. 301.]





Lecompton, K. T., January 25, 1857.

Mr. Sherrard: Sir—I received your note of this date. In reply, I have to say to you, and others, that I have taken no part in the matter. I found, when the governor first spoke of it, he had made up his mind. I spoke of matters generally, but officially or otherwise I intended to take no step further, or no more than gentility required. You must excuse this bad writing, for I am sick, and my hand cramps badly, so that I can do no better.

I remain, yours, etc.,

J. M. TUTON.

Lecompton, K. T., January 30, 1857.

Mr. R. R. Rees, Chairman of the Committee on the Judiciary:

Sir—I would beg leave to state the following facts in relation to the board of county commissioners of the county of Douglas: The county was organized by John P. Wood, judge of probate, and J. W. Banks; Commissioner G. W. Johnson not present. Johnson left the territory some time in the summer of 1856, and at the meeting of the board, either in August or September last, Wood and Banks declared a vacancy in the board and appointed a Mr. Spicer to fill the vacancy occasioned by Johnson's leaving the county. At the regular meeting of the board, on the 3d Monday of October, S. J. Jones, sheriff of Douglas county, tendered his resignation to the board. Wood and Spicer, being present, accepted his resignation, and ordered the clerk to make the same a matter of record, and on the same day Wood and Spicer appointed Sherrard to fill the vacancy of sheriff. At the meeting of the board in December, 1856, Wood and Spicer being present, and Banks having moved out of the territory, they declared a vacancy in the board, and appointed Mr. Tuton commissioner to fill the vacancy.

Respectfully yours, &c.,

JOHN P. WOOD.

[Council Journal, 1857, Apx., p. 302].

### CORRESPONDENCE.

[The letter below, from John W. Forman, Esq., of Kansas, will contribute much to the interest, with which the letter from General Richardson will be read]:

Lecompton, February 14, 1857.

My Dear Sir: The following is a correct copy of a letter written by General Richardson, immediately prior to his death, for publication, evidently. The general died to-day, and, as his colleague and friend, the original letter came into my possession, which I think it advisable to retain for the use of the general's family, as it was the last letter ever penned by him.

This voice from the dead should not go unheeded by all thinking men.

By the publication of General Richardson's letter in your paper, with this note, if you please, you will but execute the dying wishes of an honorable man, whose patriotism has never been questioned.

Very truly, your friend,

JOHN W. FORMAN, Member of the Council.

Lecompton, February 10, 1857.

Dear Sir: Lest an unfortunate affair which occurred here on yesterday may be improperly represented to you, I will undertake to give as correct an account as I have been able to obtain. I allude to the insult, offered Governor Geary by W. T. Sherrard.

The governor had visited the council; went from thence to the house of repre-



sentatives; spent some time there, and, when he opened the door leading to the antechamber, Sherrard was there, awaiting his return, no doubt.

Sherrard cursed him. The governor paid no attention to him, but walked on, when Sherrard spit on his back as often as twice; so say the two gentlemen who were with him at the time. I have no idea that Governor Geary knew the extent of the insult until the persons who were with him informed him that Sherrard spit upon him as he passed out.

I feel exceedingly mortified with the house of representatives for not passing other and different resolutions than those sent you by General Eastin.

The council took a different view of the subject. I introduced a resolution, a copy of which I herewith inclose you, the first part of which passed unanimously. The part which directed the sergeant-at-arms to forbid Sherrard to come into the council chamber we could have passed, but not unanimously. There were four others besides myself who voted for the entire resolutions.

I am satisfied in my mind, from what I have learned and know, that Sherrard would have killed the governor if he had resented the indignity. The governor was unarmed.

How long is our cause to be placed in jeopardy by irresponsible young men, who have no interest in this or any other country? I am satisfied that we have more to fear from our pretended friends than from our open enemies.

"Whereas, John W. Geary, governor of Kansas Territory, has been grossly insulted, when in the act of leaving the hall of the house of representatives, by W. T. Sherrard, of Douglas county; therefore,

"Resolved, That the council utterly condemns and discountenances the act of said Sherrard, and that the sergeant-at-arms be directed not to admit said Sherrard within the hall of this council during the present session."

I trust such disgraceful scenes may not occur again in this territory. I do not agree with the governor in everything which he has done, and freely say that I believe him honest and desirous of doing all the good he can.

Your obedient servant, WM. P. RICHARDSON.

Nathaniel Paschall, Esq., St. Louis, Mo.

[Leavenworth Herald, March 7, 1857.]

### THE HAYS CASE.

The concurrent resolutions of Mr. Anderson were taken up:

Resolved, by the House of Representatives of the Territory of Kansas, the Council concurring therein, That the independence of the judiciary is one of the main pillars in the temple of American freedom, and any interference in its functions by a coordinate branch of the government is inconsistent with and subversive of the fundamental principles of our government, and imminently perilous to the liberties of the people.

2. That the interference of the executive of the territory of Kansas with the proceedings of the United States judge, Samuel D. Lecompte, whilst engaged in the discharge of his judicial functions in the case of Charles Hays, can only be regarded by right-minded and sober-thinking men as an anti-republican and despotic assumption of power, without a parallel in the history of our government, and must be viewed with the most unqualified censure.

3. That a new era has been installed in the history of our country, when any judicial officer, to say nothing of so honest, high-minded and capable a functionary as Hon. Samuel D. Lecompte, late chief justice of the United States court for



the territory of Kansas, is removed merely because his judicial decisions are at variance with the private opinions of the executive of Kansas; and that it is to be sincerely regretted that President Pierce, most of whose public acts have been characterized by wisdom and fairness, should have been led into so serious an indiscretion as the arbitrary removal of so trustworthy and faithful a judge, whose only fault was that he dared to preserve the judiciary unsullied from the encroachments of an usurping executive.

4. That we memorialize the President, as an act demanded by justice and right, to reinstate Judge Lecompte.

5. That a copy of these resolutions be sent to the President of the United States, the president of the senate, and the speaker of the house of the United States Congress.

[House Journal, 1857, 13 Feb.]

Report of the Committee on the Judiciary in relation to objections of Governor to bill concerning bail, etc.:

The committee on the judiciary, to whom was referred the objections of the governor to bill entitled "An act to authorize courts and judges to admit to bail in certain cases," as communicated to the council in his message of the 22d inst., beg leave respectfully to report, that we heartily respond to the position of the message, that the more certain the punishment of crime, the greater will be the restraint upon the evil passions of wicked men. We freely admit that the impunity with which crime has been committed in our unfortunate country has been the primary cause of most of the offenses that have been committed here, and we entertain no doubt that, had the early agitators been brought to a prompt punishment for their defiance of the law, the fearful cloud of civil war would have never obscured the land of our adoption.

It is certainly true that the most stringent measures should be adopted for the sure execution of the law; and none are more ready to admit, than your committee, that the criminal, when once in the hands of the proper authorities, should be secured until the ends of justice can be attained; whence we are led to inquire what are the surest means of security?

But two years since our territory, now settled thickly by the enterprising farmer, mechanic, and tradesman, was trodden only by the hunter of the forest and plain. But for the last 12 months the tocsin of alarm has sounded, our towns have been converted into military posts, and strolling bandits wandered through the land; and, as a consequence, our county treasuries are empty. No tribunal has yet been able to erect a jail, and safe confinement is impossible. Then, shall we turn the criminal at liberty, to go without restraint upon him, or seek the surest means of holding him to answer for his crimes? A well-secured recognizance would certainly be better than no restraint. But we are answered that a guard could hold the culprit. It is yet a grave and mooted question whether departments of the general government will pay the costs of prosecution for a violation of our territorial laws; and if they should refuse, with what assurance could we promise payment of expenses, with an empty treasury.

But the message assumes a promise which your committee cannot here admit, that the bill confers a power which did not hitherto exist; for we assert that it is but a declaration of what the law has long been known to be. It has been settled by the highest judicial authority of the union, that treason, the crime which heads the catalogue of crimes, is bailable, and every other crime must as a consequence be bailable, and every lawyer knows that, on indictment for the crime of murder, it has long been held that, in the sound discretion of a judge, it is



competent to bail. Then it may well be asked, why the necessity of passing such an act? It is that none may doubt the true construction; that its provisions may be so explicit that all may understand it. It is objected that the bill does not establish the amount of bail; this would be exceeding hard to do, as the judge must always, from the peculiarity of the case, determine the character of bail, confined within the wholesome provisions of the constitution of the United States that excessive bail shall never be required; and in the sound discretion of the judge, it may be well presumed that correct discrimination will be made between the cases in which the party should be bailed and should not. We have too much confidence in the independence of the judiciary to suppose that they will shrink from duty, or yield to corrupting influences. The charge of laxity and dishonesty of purpose in the courts may have often been the plea for violation of enacted laws, but this has failed to prove in any instance that the plea was true.

It is still objected to the bill that the murderer will execute straw bail, or, if his bail is good, he willingly will forfeit it to save his life. It is presumed that every judge will take sufficient bail, and if the culprit forfeits it there is something gained, at least beyond what could be gained by his escape. Your committee are therefore unable to find in the objections of the governor sufficient reasons to change the action of the council, and would respectfully recommend the passage of the bill, the objections of the governor to the contrary notwithstanding.

But while such are the conclusions to which we have been forced, we are gratified to find so firm a determination exhibited in the message to maintain unsullied the sanctity of the laws, in which we pledge to the executive the entire cooperation of the council.

The suggestions in the message in relation to making bail a lien upon the estate of the accused, and his securities, we heartily approve, and respectfully recommend the passage of the accompanying bill, entitled "An act regulating bail in criminal cases."

And your committee would also recommend that the committee of ways and means be instructed to report on the most sure and early means of procuring prisons in this territory for the security of criminals, and the propriety of taking steps at this session for the location and erection of a penitentiary.

All of which is respectfully submitted.

[C. J. 1857, Apx., p. 304.]

R. R. REES, Chairman.





## GOVERNOR WALKER'S ADMINISTRATION.

[The papers which here follow are of dates subsequent to the end of Governor Geary's term of service, mainly within the administrations of Governor Walker, Acting Governor Stanton and Acting Governor Woodson. A part are gathered from various sources, and are here given in the order of date. But the principal portion are obtained from the manuscript archives in the office of the secretary of state, at Washington. These last-named papers are published in the order of dates in which they were there found.]

### GOVERNOR WALKER'S ACCEPTANCE.

LETTER OF HON. ROBT. J. WALKER.

Washington, March 26, 1857.

Dear Sir: I have at your request, reconsidered my determination as announced to you, declining your tender of the office of governor of the territory of Kansas. In view of the opinion now presented by you, that the safety of the union may depend upon the selection of the individual to whom shall be assigned the task of settling the difficulties which again surround the Kansas question, I have concluded that a solemn sense of duty to my country requires me to accept this position. I am brought to this conclusion by an unaffected diffidence in my own ability, but with a fervent hope that the same overruling providence which has carried my beloved country through so many perils will now attend and direct my humble efforts for her welfare, and that my course will not be prejudged by any portion of my fellow citizens, in or out of Kansas.

I understand that you and all your cabinet cordially concur in the opinion expressed by me, that the actual bona fide residents of the territory of Kansas, by a fair and regular vote, unaffected by fraud or violence, must be permitted, in adopting their state constitution, to decide for themselves what shall be their social institutions. This is the great fundamental principle of the act of Congress organizing that territory, affirmed by the supreme court of the United States, and is in accordance with the views uniformly expressed by me throughout my public career. I contemplate a peaceful settlement of this question by an appeal to the intelligence and patriotism of the whole people of Kansas, who should all participate, freely and fully, in this decision, and by a majority of whose votes the determination must be made, as the only proper and constitutional mode of adjustment.

I contemplate no appeal to military power, in the hope that my countrymen of Kansas from every section will submit to a decision of this matter by a full and fair vote of the majority of the people of that territory. If this decision cannot thus be made, I see nothing in the future for Kansas but civil war, extending its baleful influence throughout the country, and subjecting the union itself to imminent hazard.

I will go, then, and endeavor to adjust these difficulties, in the full confidence, so strongly expressed by you, that I will be sustained by all your own high authority, with the cordial cooperation of all your cabinet.

As it will be impossible for me to leave for Kansas before the second Monday of May next, I would desire my appointment to take effect from that date.

Very respectfully, your friend, R. J. WALKER.

James Buchanan, President of the United States.

[Herald of Freedom, April 18, 1857.]



## ADDRESS OF GOVERNOR WALKER AT TOPEKA.

Delivered at a mass meeting, Saturday, June 6, 1857, at which Col. C. K. Holliday presided.

Fellow Citizens: Upon the invitation of the citizens of Topeka and vicinity, I rise to commune with you in regard to those most important interests which are connected with the administration of affairs in the territory of Kansas. At the earnest request of the President of the United States, I consented to come here and occupy the position of governor. I do not come among you as a volunteer. I have not sought this position. On the contrary, I have accepted it, I am free to say, with great diffidence, growing out of the conviction, impressed upon the minds of the chief magistrate of the union and all his cabinet, that the peace, not only of this beautiful territory of yours, but that of the whole union, depended upon the settlement of these difficult and exciting questions, which have heretofore introduced civil war and discord throughout your borders.

When, therefore, the matter was presented to me in that light by the President of the United States and his cabinet, I felt called on, notwithstanding my deep sense of the responsibility I was required to assume, to withdraw my declination of this office, and accept the proffered trust. I am now here this day, then, fellow citizens, to address you upon those grave and momentous questions which concern so much, not only your own peace and prosperity, but that of the whole union.

And here permit me to say, that it has been my lot to have traveled through every state in this union except California, and I must say that I have never seen, anywhere, any region for which God has done so much as the territory of Kansas. [Cheers.] All that you want is peace, and the recognition of the principle that the people of Kansas alone can rule here, and its exercise in connection with all the great questions which have disturbed the quiet and harmony of this territory, in order to make, not only the town of Topeka one of the most prosperous of the territory and the union, but to make Kansas, at the proper period, a sovereign state, and one of the most important and flourishing of the whole confederacy.

Now, gentlemen, this is a practical question, and I take it that you are practical men; that you do not look to theories, but to facts and results; and that you desire to ascertain what is the best mode in which a peaceful adjustment of these most deplorable difficulties can be effected.

On this subject, gentlemen, I desire to read you a few extracts from my inaugural address, just published in this territory, together with my instructions from the President of the United States, pointing out the mode in which the chief magistrate of the union, just elected to that high position by the whole American people, as well as his cabinet, and the humble individual who now addresses you, believe these questions can be peacefully settled; and settled, not by a party, whether it be for or against slavery, but by the whole people of the territory of Kansas, who, as is their sovereign right, by that great principle which lies at the foundation of all our institutions, shall determine, by an actual majority of the votes of all her people what shall be their own constitution and their own social institutions.

I speak not now in regard to the past, or any registry of votes, but I speak as regards the future. My doctrine is this: That in the future, when the constitution shall be submitted to the vote of the citizens of Kansas, that it shall be submitted to the vote of the whole people. I do not mean those who are now registered under the territorial law; I do not mean those who were resid-



ing here on the 15th of March last; but I mean the whole people of Kansas, not only those who are here now, but those who will be here next fall as actual residents—that they, the people over whom these institutions are to operate—that they, by a majority of their votes, shall decide for themselves what shall be their constitution and what shall be their social institutions. On this subject I desire, I repeat, to read you an extract from my inaugural address to the people of the territory of Kansas, together with the views of the President of the United States:

“Indeed, I cannot doubt that the convention”—I mean the convention which is about to meet in September next—“after having framed a state constitution, will submit it for ratification or rejection to a majority of the then actual, bona fide resident settlers of Kansas.”

“With these views, well known to the President and cabinet, and approved by them, I accepted the appointment of governor of Kansas. My instructions from the President, through the secretary of state, under the date of the 30th of March last, sustain the ‘regular legislature of the territory’ in ‘assembling a convention to form a constitution,’ and they express the opinion of the President, that ‘when such a constitution shall be submitted to the people of the territory, they must be protected in the exercise of their right of voting for or against that instrument; and the fair expression of the popular will must not be interrupted by fraud or violence.’”

I come now on my own individual views: “I repeat, then, as my clear conviction, that unless the convention submit the constitution to the vote of all the actual resident settlers of Kansas, and the election be fairly and justly conducted, the constitution will be and ought to be rejected by Congress.” [Cries of “good.”]

Gentlemen, on this subject I wish that there should be no mistake, no misapprehension, as regards my opinions and the policy which I shall deem it my duty to pursue in the administration of the executive department of the territory of Kansas. It is involved in a few simple words: That the majority of the people of Kansas must govern [cries of “right”]; that the majority of the people of Kansas must adopt their own constitution or reject it; that the majority of the people of Kansas at the polls must decide whether they will have a free or a slave state. [Applause.]

Indeed, under whatever specious disguises any other doctrine may be presented, I believe that the man who desires the minority of the people shall establish institutions for the majority is, whatever he may call himself, neither a democrat nor a republican, but a monarchist, or an aristocrat. He desires that the few shall govern the many; whereas, the great fundamental doctrine which lies at the basis of all our American institutions, upon which they all repose, and which has been carried into successful operation in every other state but Kansas, and which, gentlemen, with your aid and cooperation to sustain me, it is my sincere hope shall obtain its fullest realization here, is the rule of the majority.

Now, then, gentlemen, as to the mode in which this is to be accomplished. I presume we all agree—at least I hope we do—to the doctrine that the majority of the people of Kansas shall establish their own constitution, and introduce such social institutions as the majority prefer. But how is this to be done? The Congress of the United States has established for Kansas but one mode of action on this subject, and that action is through the territorial legislature.

Now, none of you can regret more than I do any of those deplorable and



calamitous circumstances which have taken place in the past. For myself, I wish to overlook the past and look forward to a better and brighter future. That territorial legislature has, in respect to the authority over this question, been recognized by the acts of Congress of 1854 and 1857. That legislature has called a convention to assemble in September next. That constitution they will or they will not submit to a vote of the majority of the then actual resident settlers of Kansas. If they do not thus submit it, I will join you, fellow citizens, in lawful opposition to their course. [Cries of "good," and cheers.] And I cannot doubt, gentlemen, that one much higher than I, the chief magistrate of the union, will join you in opposition. But for myself, I cannot doubt that that convention will submit such an instrument as they may name for the adoption or rejection of the whole people of Kansas—to all who now are or then may be, actual, bona fide resident settlers of Kansas. Then, in pursuance of the method designated by the laws of your country, by the instructions of the chief magistrate of the union, who was placed there by the people and sworn by them to execute the laws, I do not entertain a doubt but that convention will submit, to the whole of the then bona fide settlers of Kansas, the determination for themselves, by an actual majority of the whole people, whether they shall adopt or reject that constitution. If they reject it, there is an end of that convention. It has performed its office. It has adjourned, never to meet again. [A voice, "What next?"] What next, you ask, gentlemen? There are two other very easy exits from the difficulty, and, as the question is a practical one, I propose to answer it. In October next, not under the act of the late territorial legislature, but under the laws of Congress, you, the whole people of Kansas, have a right to elect a delegate to Congress, and to elect a territorial legislature; and through that legislature you can speak your views, and instruct them either to call a new convention to submit a new constitution for the consideration of the people, or you can instruct your delegate to Congress, chosen by a majority of your own votes, to ask Congress to pass a law authorizing the people of Kansas to form a state constitution for themselves.

It is quite certain, gentlemen, that in this mode there is, in any event, a peaceful, tranquil, quiet exit from all the embarrassments and difficulties by which you are surrounded, and that the time is rapidly coming, if it has not already arrived, when the rule of justice and the people shall prevail in Kansas. [Cheers.]

Then, gentlemen, what is the other mode which is presented? You are about to have assembled here at Topeka, next week, what is called the state legislature; for they tell you that they are now about to convene a legislature for the state of Kansas. Who elected that legislature? [A voice, "The people."] The people! why the whole vote given for your so-called constitution, as claimed by yourselves, was but 1,731; whereas there are now registered over 10,000 votes as residents here on the 15th of March last, exclusive of the thousands omitted or who have arrived here since that date. The people! Do you mean to tell me that 1,731 votes constitutes the whole number of votes in the territory of Kansas? [A voice, "That was a year and a half ago."] But should those 1,731 votes a year and a half ago impose a constitution for all time to come upon the present people of Kansas? [A voice, "Not against their will."] Should the constitution be submitted to their will for adoption, or not? [Voice, "Yes."] That, gentlemen, is the great question so far as they are concerned. But I understand you claim to be a state now, and that your so-called legislature, chosen by a small number of votes, propose next





week to enact laws to be enforced in Kansas. The miserable minority, constituting not one-tenth of the present people of Kansas, propose, in absolute defiance of the acts of Congress, and in open rebellion, mark you, gentlemen! not only against the territorial laws, but against the laws and government of the United States to assemble here, and, representing 1,731 people, impose this constitution by force upon the people of Kansas by the enactment of laws. [A voice, "Where are those 10,000 voters that are not on the record?"] Some inadvertently omitted, many who would not register, and thousands who arrived since the 15th of March last. As regards the register, however, I say to you that it is of comparatively little consequence, if the constitution be submitted to the whole people.

It may suit the purposes of faction to ask such questions by those who refused to register; but the substantive fact is, that the constitution can be of no force or effect unless it is submitted to the vote of the people, and if it is so submitted it is for them to declare whether they will adopt it or not. But here comes a body of men acting in defiance of the laws of Congress, and in open rebellion against the government of the United States, representing, according to their own statement, less than one-tenth of the people of Kansas, who come forward and say that the people next fall shall not decide this question! That neither you, nor I, nor any of our fellow citizens elsewhere throughout the territory, shall have the right to determine whether we shall accept the new constitution, or reject it!

Gentlemen, I come here for purposes of peace and pacification. I come here to inaugurate the rule of law, of justice to the whole people of Kansas, by giving them all an opportunity of adopting their own constitution instead of allowing a handful of 1,731 men to thrust a constitution on them, by adopting a code of laws; for I am told that they have actually a code of laws prepared by their various committees, cut and dried, to put in operation as soon as they meet, binding the whole people of the territory, and depriving them of the right to decide on their own form of government and to adopt their own constitution.

Now, then, I repeat, that I come here for the purpose of restoring and perpetuating peace; but I tell you candidly that my instructions and my oath of office require me to put down the execution of such laws, and for the good of the people of Kansas, they must and they will be put down. [Cries of "Never, never!" A voice, "Do not the people of the United States say that those laws are right?"] The people of the United States have just elected a President who declares that such laws would be unconstitutional, null, and void. [A voice, "Who cares?"] Nay, more; the people of the United States have just elected a majority to Congress who entertain the same opinion with him. This is a matter involving the peace, happiness and prosperity of the whole people. Your towns will advance in importance and wealth, your claims will increase in value, harmony and good will will reign throughout the territory, if the people who are now here, and who will be here in November or December next, will only decide for themselves what shall be their own form of government and their own social institutions.

But what is it this legislature proposes to do? Without the slightest necessity, without the slightest pretext or apology under the mode of adjustment now proposed—I speak not now as regards the past; I wish to God that you, and I, and all of us, could rub out the past. [A voice, "It cannot be done"; another voice, "Rub out the bogus laws."] Rub them out, gentlemen, if you please, by a vote of the people. [A voice, "We cannot get that."] You



can get that. [A voice, "Give us a fair vote at the next election."] You will get that. At the next election, in October, when you elect the territorial legislature, you can repeal those laws, and you can then, also, by a majority of your own votes, adopt or reject the constitution presented for your consideration next fall.

Now, what, I ask again, is proposed to be done by this legislature? It is proposed to put in operation a body of laws. But you must remember the passage of laws is no farce. It is not a humbug. [A voice, "It has been here."] A law is a command; it exacts obedience from the whole people, and is to be actually put in force in the territory. What is the consequence? Why you thus produce an absolute, clear, direct and positive collision between that legislature and the government of the United States. There are two sets of laws, then, to govern you. Every man's contract, every man's title, every man's possession, will then be involved in difficulty, and in the course of three or four months you will have a large importation of lawyers. [A voice, "We have plenty of them now." Laughter.] It will involve you in endless litigation, from which there will be no possible extrication. Now, gentlemen, is there any necessity for this. [A voice, "None; not a bit; there never was."] Can you not peacefully decide this question in the mode pointed out by the act of Congress, if, as you can and will have, a fair and full opportunity of recording your vote? [A voice, "Why have we not had it?"] Gentlemen, I was not governor of Kansas and Mr. Buchanan was not President of the United States. [A voice, "How are we to get it?"] You will get it by the convention submitting the constitution to the vote of the whole people. [A voice, "Who is to elect the convention? That is the grand question."] Gentlemen, it is a comparatively small point by whom the constitution is to be submitted. Do n't let us run away after shadows. Do not refuse to register and then say you can't vote. The great substantial point is this: Will the whole people of Kansas next fall, by a fair election, impartially and fairly conducted by impartial judges, have an opportunity to decide for themselves what shall be their form of government and what shall be their social institutions? I say they will, but I go a step farther. [A voice, "Have you got the power?"] If I have not the power to bring it about; if the convention will not do it, I will join you in lawful opposition to their proceedings. [Cries of "Good, good." A voice, "We will hold you to your promise." Another voice, "How are we to vote for this here convention?" Another voice, "Nothing can be asked fairer than he says."]

Well, gentlemen, I have no power to repeal the laws that have been passed in reference to the convention, and if those laws have not been fairly executed it is simply no fault of mine. [A voice, "Has not James Buchanan power to repeal those laws?" Another voice, "Has n't he sanctioned them?"] He has had nothing to do with them; but the Congress of the United States has authorized the territorial legislature to pass laws. The President of the United States has taken an oath to carry the laws into effect, and it is for you, if you are opposed to those laws, through the people's vote, to repeal them. [A voice, "We cannot get at them."] There is not the least difficulty about your getting at them. [A voice, "Keep out Missouri, and we will do well enough."] Well, gentlemen, I pledge myself to do that, so far as my power is concerned; and I do not doubt that you are not in any event to have re-enacted here the scenes of the past; but, so far as my power is concerned, I pledge myself that the people of Kansas, and of Kansas alone, and not the people of Missouri or of Massachusetts, or of any other state, shall interfere,



even by one single vote, to decide for the people of Kansas what shall be their institutions. [A voice, "That is my doctrine." Cries of "Good, good."] But, gentlemen, they shall decide it for themselves. When these views of mine are not carried into effect, when you see that you will not have a full and fair opportunity to decide for yourselves what shall be your form of government and your social institutions, it will then be time enough to complain of me, and not till then. [Several voices, "That is right." Another voice, "What about the bogus laws?"]

And now I am asked, what about the bogus laws? Why, your very governor, Mr. Robinson, has acknowledged those bogus laws by putting into effect a charter passed by that bogus legislature, and so have many of you, and nearly all the people of Kansas. And if the bogus legislature has power to pass charters it has power to pass any other law not in conflict with the constitution of the United States. [A voice, "How are those inspectors to be appointed?"] They must be appointed fairly and impartially, of course. [A voice, "Who is to appoint them?"] I doubt not that the convention will prescribe a fair, just, and impartial method, as they do in other states. [A voice, "They did, in giving us 280 voters in this county." Laughter.] Well, gentlemen, let us look at that question. What have these 280 voters to do, if you have all a fair vote next fall on the constitution? [A voice, "There has been no census taken."] That has nothing on earth to do with the question. But while I most deeply regret and deplore the circumstance that there has been an insufficient census, what am I to think, when told by those who profess to represent the republican party of this territory, who tell you that you should neither register nor vote. You were kept from registering, as you all know, by following the advice of these party leaders of yours, and then complain you cannot vote. You could have registered here if you pleased, and hundreds in this territory, since hearing my plan, have expressed to me their deep regret that they had not registered; and many of your county, since my arrival, have changed their position and resolved to vote. Every man who responds that he will not acknowledge those laws has been deprived of no privilege in not being registered, because he declares that, whether registered or not, he will not vote. If you dislike the convention, do you best oppose it by standing aloof and allowing a majority of other persons to adopt their constitution, or by voting down that instrument? If you do not vote next fall, for or against that instrument, when you have a fair chance, Congress will act as though you had. No, you cannot defeat the constitution by refusing to vote. [A voice, "The governor is right, and we will vote then."]

Now, gentlemen, I really believe I have detained you too long. There is nothing on earth that I love more than free opinion, a free press, and popular discussion. [Cries of "Right."] Instead of objecting to it, I love to hear some few of you differ from me or ask questions. Come, let us reason together. Discarding passion and prejudice, regretting as you and I do all the difficulties that have occurred in the past, let us ask ourselves this great practical question: What is best for the great future of Kansas? [A voice, "The Topeka constitution."] Well, gentlemen, I hope no one will say so, unless the man who believes that 1,731 voters should deprive some 20,000 or 30,000 voters now in the territory or that soon will be here of deciding their own form of government for themselves. [A voice, "How was it when the people of Missouri came here?"] I have nothing to do with the people of either Missouri or Massachusetts. I am only looking to the future. And I



say, if you desire war [Loud cries of "No, no!"]; if you desire conflict ["No, no!"]; you desire to enter into a rebellion, not against the territorial laws only, but against the government of the United States ["No, no!"], all you have to do is to set up the state government against the government approved by the President and the acts of Congress, by the present enactment of state laws. [A voice, "Not now."] There cannot be a state government without a state governor, nor without his superseding the governor appointed by the President of the United States under the laws of Congress. There cannot be a state government without state judges, and there cannot be state judges without their superseding the judges appointed by the President of the United States under the laws of Congress, or a state legislature without superseding the territorial legislature. It means that, or it means nothing. Surely this is open rebellion against the government of the United States, to which you tell me you do not mean to resort.

Now, then, gentlemen, I return you my most sincere thanks for the kind and indulgent attention with which you have listened to my remarks. [A voice, "What as to the taxes?"] Long before I am called on for any official action, the reign of law, of justice and of the people will be so fully established here that, as good citizens, you will all cheerfully pay this small pittance to support your own government. [A voice, "We will have a great deal more confidence in the vote of the people to be given next fall if you will tell us by what authority the judges are to be appointed."] I will answer that question, for I have no doubt it is fairly asked and in a fair spirit. [The voice, "It certainly is."] I will say then to you, gentlemen, that if you do not appoint a fair and impartial mode by which the majority of the actual, bona fide resident settlers of Kansas shall vote, through the instrumentality of impartial judges, I will join you all in lawful opposition to their doings, and the President and Congress will reject their constitution. [A voice, "Will the convention appoint impartial judges?"] It is their duty to do so. [A voice, "Will they do so?"] Gentlemen, I am not the convention, but I do not doubt they will give you impartial judges. [A voice, "I will ask the governor if there is any one who will be allowed to vote for this convention except those registered?"] As regards the past, I have got no power to recall it. The past is irrevocable, even by almighty power, and I profess to have very little power, much less such power as that. Over the past I have no control; but over the future I have; and I say to you, that unless a full and fair opportunity is given to the whole people of Kansas to decide for themselves what shall be their form of government, including the great sectional question which has so long divided you—unless, I repeat, they grant you such an opportunity, I have one power of which no man or set of men can deprive me, and to which I shall unhesitatingly resort, and that is to join you in lawful opposition to their acts. [Cries of "Good, good," and loud applause, during which the governor withdrew.]

Hon. F. P. Stanton, the territorial secretary, was introduced by the chairman, and addressed the assemblage in an eloquent, brilliant and most effective speech.

A brief and most able address by Hon. E. O. Perrin terminated the proceedings.

[Herald of Freedom, June 20, 1857.]





## MILITARY OPERATIONS.

[From Rep. U. S. Sec. of War, 1857, pp. 94-131; 35 Cong., 1st Sess., Sen. Ex. Doc. No. 11.]

LIST OF DOCUMENTS ACCOMPANYING THE REPORT OF THE ADJUTANT-GENERAL  
*Cheyenne Expedition.*

Letter from Col. E. V. Sumner to the assistant adjutant-general at the headquarters of the army, August 9, 1857.

Letter from Col. E. V. Sumner to the assistant adjutant-general at the headquarters of the army, August 11, 1857.

Letter from Col. E. V. Sumner to the assistant adjutant-general at the headquarters of the army, September 20, 1857.

*Troops in Kansas.*

Letter from the adjutant-general to Gen. W. S. Harvey, May 8, 1857, inclosing—

No. 1. Letter from the adjutant-general to Gen. P. F. Smith, April 1, 1857.

No. 2. Letter from the adjutant-general to the commanding officer at Fort Leavenworth, April 28, 1857.

No. 3. Letter from the adjutant-general to the commanding officer at Fort Leavenworth, October 6, 1855.

No. 4. Letter from the adjutant-general to the commanding officer at Fort Leavenworth, January 30, 1856.

Letter from Gen. W. S. Harney to the secretary of war, September 25, 1857, inclosing—

No. 1. Letter from Gov. R. J. Walker to Gen. W. S. Harney, September 21, 1857.

No. 2. Letter from Gen. W. S. Harney to Gov. R. J. Walker, September 22, 1857.

No. 3. Letter from Capt. A. Pleasonton to Lieut.-Col. J. E. Johnston, September 22, 1857.

No. 4. Letter from Capt. A. Pleasonton to Maj. J. Sedgwick, September 22, 1857.

No. 5. Letter from Capt. A. Pleasonton to Maj. J. Sedgwick, September 24, 1857.

No. 6. Letter from Capt. A. Pleasonton to Lieut.-Col. J. E. Johnston, September 25, 1857.

No. 7. Proclamation of Gov. R. J. Walker, September 10, 1857.

Letter from Gen. W. S. Harney to the secretary of war, October 5, 1857, inclosing—

No. 1. Letter from Gov. R. J. Walker to Gen. W. S. Harney, September 26, 1857.

No. 2. Letter from Gen. W. S. Harney to Gov. R. J. Walker, September 27, 1857.

No. 3. Special order No. 77, headquarters troops in Kansas, September 26, 1857.

No. 4. Letter from Capt. A. Pleasonton to Maj. W. T. Sherman, September 26, 1857.

No. 5. Letter from Gov. R. J. Walker to Gen. W. S. Harney, September 28, 1857.

No. 6. Letter from Gen. W. S. Harney to Gov. R. J. Walker, September 28, 1857.



- No. 7. Special orders No. 78, headquarters troops in Kansas, September 28, 1857.
- No. 8. Letter from Capt. A. Pleasonton to Lieut.-Col. H. Brooks, September 28, 1857.
- No. 9. Letter from Gov. R. J. Walker to Gen. W. S. Harney, October 3, 1857.
- No. 10. Letter from Gen. W. S. Harney to Gov. R. J. Walker, October 3, 1857.
- No. 11. Special orders No. 85, headquarters troops in Kansas, October 3, 1857.
- No. 12. Letter from Capt. A. Pleasonton to Maj. H. J. Hunt, October 3, 1857.
- No. 13. Letter from Capt. A. Pleasonton to Capt. T. Hendrickson, October 3, 1857.
- No. 14. Letter from Capt. A. Pleasonton to Capt. E. W. B. Newby, October 3, 1857.
- Letter from Gen. W. S. Harney to the secretary of war, October 11, 1857, enclosing—
- No. 1. Letter from Gen. W. S. Harney to Gov. R. J. Walker, October 9, 1857.
- No. 2. Letter from Gov. R. J. Walker to Gen. W. S. Harney, October 10, 1857.

---

#### CHEYENNE EXPEDITION.

Arkansas River, near the site of Fort Atkinson, August 9, 1857.

Sir: I have the honor to report that, on the 29th ultimo, while pursuing the Cheyennes down the Solomon's Fork of the Kansas, we suddenly came upon a large body of them, drawn up in battle array, with their left resting upon the stream, and their right covered by a bluff. Their number has been variously estimated from 250 to 500; I think there were about 300. The cavalry were about three miles in advance of the infantry, and the six companies were marching in three columns. I immediately brought them into line, and, without halting, detached the two flank companies at a gallop to turn their flanks (a movement they were evidently preparing to make against our right), and we continued to march steadily upon them. The Indians were all mounted, and well armed, many of them had rifles and revolvers, and they stood, with remarkable boldness, until we charged and were nearly upon them, when they broke in all directions, and we pursued them seven miles. Their horses were fresh and very fleet, and it was impossible to overtake many of them. There were but nine men killed in the pursuit, but there must have been a great number wounded. I had two men killed, and Lieut. J. E. B. Stuart and eight men wounded; but it is believed they will all recover. All my officers and men behaved admirably. The next day I established a small force near the battle-ground, and left my wounded there in charge of a company of infantry with two pieces of artillery, with orders to proceed to the wagon-train, at the lower crossing of the South Fork of the Platte, on the 20th inst., if I did not return before that time.

On the 31st ultimo I started again in pursuit, and at 14 miles I came upon their principal town. The people had all fled; there were 171 lodges standing, and about as many more that had been hastily taken down, and there was a large amount of Indian property of all kinds, of great value to them. I had everything destroyed, and continued the pursuit. I trailed them to within 40 miles of this place, when they scattered in all directions. Believing they would reassemble



on this river, (for there are no buffalo in their country this summer on which they can subsist,) I have come here hoping to intercept them, and to protect this road. I was obliged to send my wagon-train back to Laramie, from near Fort St. Vrain, and to take pack-mules.

My supplies have been exhausted for some time, except fresh beef, and I have beef only for 24 days. I shall send an express to Fort Leavenworth to have supplies pushed out to me as soon as possible, for I do not think these Indians have been sufficiently punished for the barbarous outrages they have recently committed. The battalion of the Sixth infantry, under Captain Ketchum, belonging to my command, has had a long and arduous march. It is matter of deep regret to them, as it is to myself, that I could not wait to bring them into the action. As I have no supplies with which I can send these troops back to Laramie, I must take them to Fort Leavenworth; and if they are to return to Laramie this fall, I would respectfully ask for authority to send them up in a light train.

I have the pleasure to report, what I know will give the lieutenant-general commanding the army the highest satisfaction, that in these operations not a woman nor a child has been hurt.

I am, sir, very respectfully, your obedient servant, E. V. SUMNER,  
Colonel 1st Cavalry, Commanding Expedition.

The Assistant Adjutant-General, Headquarters of the Army, New York, N. Y.

---

Headquarters Cheyenne Expedition,

Arkansas River, one march below Fort Atkinson, August 11, 1857.

Sir: I have received authentic information from the mail party to-day that the agent for the Cheyennes has gone up to Bent's Fort with the yearly presents for that tribe, and that he has been informed by them that they would not come to receive their presents in the usual way, but that he should never carry the goods out of the country. Under these circumstances, I consider the agent and the public property in his charge in jeopardy. I have therefore decided to proceed at once to Bent's Fort with the elite of my cavalry, in the hope that I may find the Cheyennes collected in that vicinity, and, by another blow, force them to sue for peace; at all events, this movement will secure this agent and the public property. Another motive is, that by this march up the river I shall the more effectually cover this road from Indian depredations this summer.

I have directed Captain Ketchum, with his battalion and a part of the cavalry, to proceed, by easy marches, to Walnut creek, and there await my return.

I am, sir, very respectfully, your obedient servant,

E. V. SUMNER, Colonel 1st Cavalry, Commanding.  
Assistant Adjutant-General, Headquarters of the Army, New York City.

---

Headquarters First Cavalry,

Fort Leavenworth, K. T., September 20, 1857.

Sir: I have the honor to submit a report of my operations during the past summer, or rather a brief recapitulation of the reports already forwarded. I detached Major Sedgwick, with four companies of cavalry, from this post on the 18th of May, to move by the Arkansas river, and to meet me on the South Fork of the Platte on the Fourth of July. I marched, with two companies of cavalry, on the 20th of May, for Fort Kearny, where, in compliance with orders, I took up two companies of the Second dragoons stationed at that post, and moved on towards Fort Laramie. When about 80 miles from the latter post, I received an



order to leave the two companies of dragoons at Fort Kearny for General Harney's expedition to Utah. As they were then so near Fort Laramie, instead of sending them back to Fort Kearny, to march over the same ground three times, I took them to Fort Laramie, and left them there; which, I trust, was approved by the general commanding the army. On the 27th of June I moved south from Fort Laramie with two companies of cavalry, and three companies of the Sixth infantry.

On the 4th of July I reached the South Fork of the Platte, and should have formed a junction with Major Sedgwick on that day, but the river was entirely impassable. On the next day I attempted to establish a ferry with the metallic wagon-beds, but found them entirely useless, and was obliged to abandon it. The two commands then moved down the river until I found a ford, and then brought Major Sedgwick's command over to my camp.

It was my intention to establish a larger camp somewhere in that vicinity, and form two columns for the pursuit of the Indians; but hearing they would be in force and would resist, I determined to abandon my wagons, train, tents, and all other incumbrances, and proceed with my whole command in pursuit of the Indians. The train was sent back to Fort Laramie, with orders to meet me at the lower crossing of the South Fork of the Platte in 20 days; but, in pursuing the Indians, I was drawn across the country to the Arkansas river, and we had nothing but fresh beef to subsist upon for some time. I found the trail of the Indians on the 24th of July, and on the 29th came upon them, as already reported, which report narrates the battle, the destruction of the town, and the pursuit to the Arkansas. On arriving there I found the agent for the Cheyennes had taken to Bent's Fort the annual presents for that tribe, including arms and ammunition. I knew the government could never intend to send an expedition against a tribe of Indians, and at the same time give them arms and ammunition. I therefore determined to proceed at once to Bent's Fort to prevent the Indians from getting this property, especially as they had threatened that it could not be taken out of the country.

I had also hoped of finding the Indians collected again in that vicinity. I trust my reports in relation to this matter were satisfactory to the commanding general, and that he indorsed them to that effect, for without his approval the measures that I felt bound to take may involve me in difficulty with the department of the interior. On my arrival at Walnut creek, I received the order to break up the expedition, and to detach four companies of cavalry and three of infantry for the expedition to Utah. I immediately put the detachment in as good order as possible, by stripping the two companies which were to return to this post, and directed Major Sedgwick to proceed across the country to Fort Kearny, on his route to Utah. We had then marched 1,600 miles, and, although this order was entirely unexpected, and the men and horses were much worn down, not a man deserted, when they could easily have made their escape by taking the best of the horses. The conduct of my command throughout the summer has been all I could wish; the officers and men have not only shown bravery in action, but they have shown the higher quality of a manly and cheerful endurance of privations.

Six days after I detached Major Sedgwick, as I was returning to this post with the two remaining companies, I was very happy to receive the countermand of the order for Utah. I arrived at this post on the 16th instant, after marching over 1,850 miles.

I am, sir, very respectfully, your obedient servant, E. V. SUMNER.

Colonel 1st Cavalry, Commanding Cheyenne Expedition.  
Assistant Adjutant-General, Headquarters of the Army, New York City.





## TROOPS IN KANSAS.

Adjutant-General's Office, Washington, May 8, 1857.

General: In transmitting to you special order No. 62, of this date, assigning you to duty according to your brevet rank, and to the command of the troops designated for service in the territory of Kansas, I am directed by the secretary of war to say that you will be strictly governed by the instructions of the department, as conveyed in the letters addressed from this office April 1 and April 28, 1857, to the commanding general of the department of the west and the commanding officer at Fort Leavenworth, copies of which are herewith inclosed.

The secretary especially orders that no portion of the force subject to your authority be used for the removal of intruders from the Indian lands in Kansas, under the instructions of October 6, 1855, and January 30, 1856, copies of which are also inclosed, except after advisement with the governor of the territory, nor in any way which may conflict with the requisitions that the governor may make upon you.

I am, sir, very respectfully, your obedient servant,

S. COOPER, Adjutant-General.

Brevet Brig.-Gen. W. S. Harney, Commanding, &c., &c., Fort Leavenworth, K. T.

Adjutant-General's Office, Washington, April 1, 1857.

General: I am directed by the secretary of war to convey to you the following instructions for the guidance of the officers of the army serving in the territory of Kansas:

"If the governor of the territory, finding the ordinary course of judicial proceedings and the power vested in the United States marshals and other proper officers inadequate for the preservation of the public peace and the due execution of the laws, should make requisition upon you to furnish a military force to aid him, as a posse comitatus, in the performance of that official duty, you are hereby directed to employ for that purpose the whole or such part of your command as he may require.

"In executing this delicate function of the military power of the United States, the responsibility will be upon the governor of the territory, and you will implicitly obey his orders. These instructions are given in the hope that the governor will not find it necessary to resort to the military power, and in entire confidence that, if so deplorable a necessity should occur, he will discontinue the use of your forces at the earliest practicable moment."

I have the honor to be, sir, very respectfully, your obedient servant,

S. COOPER, Adjutant-General.

Brevet-Maj.-Gen. P. F. Smith, U. S. Army, Commanding Department of the West, Baltimore, Md.

Adjutant-General's Office, Washington, April 28, 1857.

Sir: I am instructed by the secretary of war to say that the instructions conveyed in the letter addressed from this office to the commanding general of the department of the west, April 1, 1857, placing the troops serving in Kansas at the disposal of the governor of that territory in certain specified contingencies, and with a copy of which you have been furnished, supersede any instructions of a prior date from the President or secretary of war with which they may in any degree conflict.

I am, sir, very respectfully your obedient servant,

S. COOPER, Adjutant-General.

The Commanding Officer, Fort Leavenworth, K. T.



Adjutant-General's Office, Washington, October 6, 1855.

Sir: The President of the United States directs that, on proper application therefor, you aid in the removal of intruders from the country in the vicinity of Fort Leavenworth set apart for Indian occupation, according to the terms of the act of 1834, commonly called the Indian intercourse act, a copy of which is herewith transmitted. I am, sir, very respectfully, your obedient servant,

S. COOPER, Adjutant-General.

Commanding Officer, Fort Leavenworth, K. T.

Adjutant-General's Office, Washington, January 30, 1856.

Sir: Referring to the letter addressed to you from this office under date of October 6, 1855, in relation to the removal of intruders from the country in the vicinity of Fort Leavenworth set apart for Indian occupation, I have the honor to state that the direction of the President as therein conveyed was not intended to apply to lands ceded by the Indians to the United States for sale, but only to lands actually reserved for their residence.

I am, sir, very respectfully, your obedient servant,  
Commanding Officer, Fort Leavenworth, K. T.

S. COOPER,  
Adjutant-General.

#### PRESERVATION OF PEACE AT ELECTIONS.

Headquarters Troops serving in Kansas,  
Fort Leavenworth, September 25, 1857.

Sir: I have the honor to inclose for your information a copy of a communication from the governor of this territory making a requisition upon me for the forces under the command of Lieut.-Col. J. E. Johnston and Maj. J. Sedgwick, First cavalry, to act as a "posse comitatus" to preserve the public peace, and to aid in the execution of the laws at certain of the election precincts in this territory during the election to take place on the 6th of October next.

I have also the honor to inclose a copy of my reply to the governor on this subject, and copies of my instructions to Lieutenant-Colonel Johnston and Major Sedgwick, in accordance with the requirements of the governor.

I am, sir, very respectfully, your obedient servant,

WILLIAM S. HARNEY,

Colonel 2d Dragoons, Bvt. and Brig.-General Commanding.

Hon. John B. Floyd, Secretary of War, Washington.

Leavenworth, K. T., September 21, 1857.

Sir: Insurrectionary movements accompanied by a seizure of the polls being threatened at the general election which will take place in this territory on the first Monday of October next, it becomes my duty, under my instructions from the President of the United States, to request you to direct Lieutenant-Colonel Johnston and Major Sedgwick, respectively, in command of the troops now on their way from the West, to make the following disposition of them:

1st. Lieutenant-Colonel Johnston to retain two companies of infantry at Council Grove, in Wise county.

2d. Lieutenant-Colonel Johnston to send immediately one company of cavalry to each of the following places in this territory, viz.: Emporia, in Breckenridge county; Burlington, in Coffey county; Hyattville, in Anderson county; and to Brownsville, in Shawnee county.



3d. Major Sedgwick to retain two companies of infantry at Marysville, in Marshall county.

4th. Major Sedgwick to send immediately one company of cavalry to each of the following points in Kansas, namely; To Richmond, in Nemaha county; to Claytonville or Hiawatha, in Brown county; to Palermo, in Doniphan county; and to Atchison, in Atchison county.

5th. In case the places named as above should, in any instance, prove to be those in which elections are not holden, then, in lieu thereof, said companies to proceed to the principal points, respectively in said counties, which are election precincts.

6th. Each of these twelve companies to be retained at the places respectively named as above until the day succeeding the election, unless the proper authorities hereafter referred to, in the execution of their duties, should deem it necessary longer to retain them.

7th. The troops are requested to receive from you directions to act as a "posse comitatus," in aid of the civil authorities in the due execution of the laws, and for the preservation of the public peace. The United States marshal or sheriffs, it is presumed, will be at or near the several county-seats, to whom the officer in command will immediately report himself and his force, for the objects above specified.

Very respectfully, your obedient servant,

R. J. WALKER, Governor of Kansas Territory.

Brevet Brig.-Gen. William S. Harney, Commanding troops serving in Kansas.

Headquarter Troops serving in Kansas,

Fort Leavenworth, September 25, 1857.

Official: A. PLEASONTON, Captain 2d Dragoons, A. Asst. Adjt.-Gen.

Headquarters Troops serving in Kansas,

Fort Leavenworth, September 22, 1857.

Governor: I have the honor to acknowledge the receipt of your communication of the 21st instant, and in reply I desire to inform you I have sent instructions to Lieutenant-Colonel Johnston and Major Sedgwick, First cavalry, to dispose of their commands in accordance with the arrangements you proposed in your communication, at the same time directing that the forces should be reported, in each case, to the proper civil officers as a "posse comitatus" to aid in the execution of the laws and the preservation of the public peace.

I am, governor, very respectfully, your obedient servant,

WILLIAM S. HARNEY,

Colonel 2d Dragoons and Bvt. Brig.-Gen. Commanding.

His Excellency R. J. Walker, Governor of Kansas Territory, Fort Leavenworth, K. T.

Headquarters Troops serving in Kansas,

Fort Leavenworth, September 25, 1857.

Official: A. PLEASONTON, Capt. 2d Dragoons, A. Asst. Adjt.-Gen.

Headquarters Troops serving in Kansas,

Fort Leavenworth, September 22, 1857.

Colonel: The general commanding instructs me to inform you the general election in this territory will take place on the first Monday of October next, and that the governor of the territory has deemed it proper and necessary to make requisition upon him for the force under your command, to act as a "posse com-



itatus," under the authority of the United States marshals, sheriffs, or other proper civil officers, for the purpose of preserving the public peace, and to aid in the due execution of the laws.

You are accordingly directed to make the following disposition of your command, viz.:

The two companies of the Sixth infantry will be halted at Council Grove, in Wise county.

One company of First cavalry will be sent immediately to each of the following-named places in the territory, viz.:

Emporia, in Breckenridge county; Burlington, in Coffey county; Hyattville, in Anderson county; and Brownsville, in Shawnee county.

Should any of the places named above prove to be those in which no elections are to be held, then the said companies will proceed to the principal points, respectively, in said counties, which are election precincts.

Each officer in command of the above-named detachments will be instructed by you to report his force as posse comitatus to the United States marshals, sheriffs, or other proper civil officers, upon his arrival at his place of destination, to execute such instructions as may be given him in that capacity; and he will remain in that position until the day succeeding the election, when he will return to this post, unless the above-mentioned civil authorities, in the execution of their duties, shall deem it necessary to detain the command for a longer period.

In case any of these commands have not sufficient subsistence to supply them, send your train, or a portion of it, to this post for that purpose.

I am, colonel, very respectfully, your obedient servant,

A. PLEASONTON,

Capt. 2d Dragoons, Acting Asst. Adj.-Gen.

Lieut. Col. J. E. Johnston, 1st Cavalry, Commanding Troops en route to Fort Leavenworth.

Headquarters Troops serving in Kansas,

Fort Leavenworth, September 25, 1857.

Official: A. PLEASONTON, Capt. 2d Dragoons, Acting Asst. Adj.-Gen.

Headquarters Troops serving in Kansas,

Fort Leavenworth, September 22, 1857.

Major: The general commanding instructs me to inform you the general election in this territory will take place on the first Monday of October next, and that the governor of the territory has deemed it proper and necessary to make requisition upon him for the force under your command to act as a posse comitatus, under the authority of the United States marshals, sheriffs, or other proper civil officers, for the purpose of preserving the public peace, and to aid in the due execution of the laws.

You are, accordingly, directed to make the following disposition of the force under your command, viz.:

The two companies of the Sixth infantry will be halted at Marysville, in Marshall county.

One company of First cavalry will be sent immediately to each of the following-named places in the territory, viz.:

To Richmond, in Nemaha county; to Claytonville, or Hiawatha, in Brown county; to Palermo, in Doniphan county; and to Atchison, in Atchison county.

Should any of the places named above prove to be those in which no elections





are to be held, then the said companies will proceed to the principal points, respectively, in said counties which are election precincts.

Each officer in command of the above-named detachments will be instructed by you to report his force as a "posse comitatus" to the United States marshal, sheriff, or other proper civil officer, upon his arrival at his place of destination, to execute such instructions as may be given him in that capacity; and he will remain in that position until the day succeeding the election, when he will return to this post, unless the above-mentioned civil authorities, in the execution of their duties, should deem it necessary to detain the command for a longer period.

In case any of these commands have not sufficient subsistence to supply them, send your train, or a portion of it, to this post for that purpose.

I am, major, very respectfully, your obedient servant,

A. PLEASONTON,

Capt. 2d Dragoons, Act. Asst. Adjt.-Gen.

Maj. J. Sedgwick, 1st Cavalry.

Headquarters Troops serving in Kansas,

Fort Leavenworth, September 25, 1857.

Official: A. PLEASONTON, Capt. 2d Dragoons, Act. Asst. Adjt.-Gen.

Headquarters Troops serving in Kansas,

Fort Leavenworth, September 24, 1857.

Major: Captain Sturgis, First cavalry, will deliver to you a package containing a number of copies of a proclamation from the governor of this territory, which you are instructed by the general commanding to distribute to the officers of your command, giving directions, at the same time, to the captains of the different companies to present a copy to each of the judges of elections and sheriffs at the respective precincts to which they have been assigned in a former communication. I am, major, very respectfully, your obedient servant,

A. PLEASONTON,

Capt. 2d Dragoons, Act. Asst. Adjt.-Gen.

Maj. J. Sedgwick, 1st Cavalry, Commanding Troops, Marysville, K. T.

Headquarters Troops serving in Kansas,

Fort Leavenworth, September 25, 1857.

Official: A. PLEASONTON, Capt. 2d Dragoons, Act. Asst. Adjt.-Gen.

Headquarters Troops serving in Kansas,

Fort Leavenworth, September 25, 1857.

Colonel: A number of copies of a proclamation from the governor of this territory are inclosed to you with this communication, which you are instructed by the general commanding to distribute to the officers of your command, giving directions, at the same time, to the captains of the different companies to present a copy to each of the judges of election and sheriffs at the respective precincts to which they have been assigned in the letter of instructions addressed to you of the 22d instant, from these headquarters.

I am, colonel, very respectfully, your obedient servant,

A. PLEASONTON, Capt. 2d Dragoons, Act. Asst. Adjt.-Gen.

Lieut.-Col. J. E. Johnston, 1st Cavalry, Commanding troops, etc., Council Grove, K. T.

Headquarters Troops serving in Kansas,

Fort Leavenworth, Sept. 25, 1857.

Official: A. PLEASONTON, Captain 2d Dragoons, Acting Asst. Adj.-Gen.



## THE INSURGENT GOVERNMENT OF LAWRENCE.

Proclamation of Governor Walker to the people of Lawrence, September 10, 1857.

[The proclamation is published in this volume among the papers transmitted to the senate by President Buchanan, under date of December 22, 1857, in compliance with the resolution of Senator Trumbull.]

Headquarters Troops serving in Kansas,  
Fort Leavenworth, October 5, 1857.

Sir: I have the honor to inclose for your information copies of certain requisitions from his excellency, the governor of this territory, for troops to aid the civil authorities in the preservation of the public peace at the different election precincts where violence was to be apprehended. Also, copies of my replies, with the instructions to the officers in command of the various detachments.

I am, sir, very respectfully, your obedient servant,

WILLIAM S. HARNEY,

Col. 2d Dragoons, Brvt. Brig.-Gen. Commanding.

Hon. John B. Floyd, Secretary of War, Washington City.

Leavenworth, K. T., September 26, 1857.

Sir: Authentic intelligence has been communicated to me that the insurgent government of Lawrence, under the erroneous opinion that the regular troops had all been ordered to Utah, and would not be replaced by others, have passed a compulsory-tax law authorizing the seizure and sale of property, and exacting from their executive officers the enforcement of this ordinance under the solemnity of an oath.

It was sincerely hoped that my proclamation on the subject of the 15th of July last, which has received the cordial approbation of the President of the United States, together with the movement at that date of the troops to Lawrence as a precautionary measure, would have induced the people of that city to abandon their revolutionary proceedings. They have, however, chosen otherwise, under the erroneous conviction before stated, and it becomes necessary, therefore, to station troops again at Lawrence to meet any emergency which may occur.

Under these circumstances, it becomes my duty, under my instructions from the President of the United States, to request you to direct Major Sherman's battery, supported by one company of artillery, to proceed at once to the immediate vicinity of Lawrence, to act as a "posse comitatus" in aid of the civil authorities in the due execution of the laws, and for the preservation of the public peace.

The service of the troops for this purpose will be discontinued so soon as the public exigency will permit. Respectfully yours,

R. J. WALKER, Governor of Kansas Territory.

Brevet Brig.-Gen. William S. Harney, Commanding Troops serving in Kansas.

Headquarters Troops serving in Kansas,

Fort Leavenworth, October 5, 1857.

Official: A. PLEASANTON, Capt. 2d Dragoons, Act. Asst. Adjt.-Gen.

Headquarters Troops serving in Kansas,  
Fort Leavenworth, September 27, 1857.

Governor: I have the honor to acknowledge the receipt of your communication of yesterday's date, and, in compliance with your requisition, I inclose for



your information a copy of special orders No. 77 from these headquarters, directing the movement of Sherman's battery and company F, second artillery, to the vicinity of the city of Lawrence.

Major Sherman has been instructed to report his force to yourself upon his arrival, to act as a posse comitatus to execute such orders as you may deem proper to give him in that capacity.

I am, governor, very respectfully, your obedient servant,

WILLIAM S. HARNEY,

Colonel 2d Dragoons, Brigadier-General Commanding.

His Excellency R. J. Walker, Governor of Kansas Territory, Fort Leavenworth, K. T.

Headquarters Troops serving in Kansas,

Fort Leavenworth, October 5, 1857.

Official: A. PLEASONTON, Capt. 2d Dragoons, Act. Asst. Adjt.-Gen.

SPECIAL ORDERS No. 77.

Headquarters Troops serving in Kansas,

Fort Leavenworth, September 26, 1857.

I. Company F, Second artillery, and light company E, Third artillery, under the command of Major T. W. Sherman, Third artillery, will proceed without delay to the vicinity of the city of Lawrence, in this territory, in fulfillment of the requisition of the governor of Kansas Territory for their services as a posse comitatus, to aid the civil authorities in the due execution of the law and for the preservation of the public peace.

Special instructions for his guidance will be given Major Sherman.

II. The quartermaster, subsistence and ordnance departments at this post will furnish this command with the necessary transportation and supplies. Subsistence and forage for two weeks will be required.

By order of General Harney:

A. PLEASONTON,

Capt. 2d Dragoons, Act. Asst. Adjt.-Gen.

Headquarters Troops serving in Kansas,

Fort Leavenworth, September 26, 1857.

Major: The general commanding instructs you, upon arriving in the vicinity of the city of Lawrence, in obedience to special orders No. 77 from these headquarters, to report your force to the governor of this territory, as a "posse comitatus" to execute such orders as he may deem proper to give you in that capacity. I am, major, very respectfully, your obedient servant,

A. PLEASONTON,

Capt. 2d Dragoons, Act. Asst. Adjt.-Gen.

Brevet-Maj. T. W. Sherman, Capt. 3d Artillery, Commanding Troops, etc., Fort Leavenworth, K. T.

Headquarters Troops serving in Kansas,

Fort Leavenworth, October 5, 1857.

Official: A. PLEASONTON, Capt. 2d Dragoons, Act. Asst.-Adj.-Gen.

Leavenworth, K. T., September 28, 1857.

Sir: In pursuance of authority vested in me by the President of the United States, you are requested to direct Colonel Brook's battery, supported by two foot companies of the Second artillery, to proceed to Shawnee Mission, com-



monly called Gum Springs, in Johnson county, in Kansas, to act as posse comitatus in aid of the civil authorities in the due execution of the laws, and for the preservation of the public peace.

You are requested to direct the troops to be present at the place above designated throughout the day of election in this territory, which is the first Monday of October next. It is desired that the troops should remain at the place above stated only until the day succeeding the election, unless the proper authorities hereafter referred to, in the execution of their duties, should deem it necessary longer to detain them. The United States marshal or sheriff, it is presumed, will be at or near this point, to whom the officer in command should report himself and his force for the objects above specified.

Very respectfully, your obedient servant,

R. J. WALKER, Governor of Kansas Territory.

Brevet Brig.-Gen. W. S. Harney, Commanding Troops serving in Kansas.

Headquarters Troops serving in Kansas,

Fort Leavenworth, October 5, 1857.

Official: A. PLEASANTON, Capt. 2d. Dragoons, Act. Asst. Adjt.-Gen.

Headquarters Troops serving in Kansas,

Fort Leavenworth, September 28, 1857.

Governor: I have the honor to acknowledge the receipt of your communication of this date, requesting a battery and two companies of the Second artillery to be sent to Shawnee Mission as a posse comitatus, to aid the civil authorities at the approaching election to preserve the public peace and to execute the laws.

A copy of special orders No. 78, from these headquarters, is inclosed for your information; and I have further to state that special instructions, agreeable to your desires, have been given Lieutenant-Colonel Brooks, commanding, for his guidance.

I am, governor, very respectfully, your obedient servant,

W. S. HARNEY,

Col. 2d Dragoons, Brig.-Gen. Com'g.

His excellency, R. J. Walker, Governor of Kansas Territory, Fort Leavenworth, K. T.

Headquarters Troops serving in Kansas,

Fort Leavenworth, October 5, 1857.

Official: A. PLEASANTON, Capt. 2d Dragoons, Act. Ass't. Adjt.-Gen.

#### SPECIAL ORDERS NO. 78.

Headquarters Troops serving in Kansas,

Fort Leavenworth, September 28, 1857.

I. Light company A, with companies E and H, Second artillery, under the command of Brevet Lieut.-Col. Horace Brooks, captain Second artillery, will proceed without delay to Shawnee Mission, commonly called Gum Springs, in Johnson county, Kansas territory, in compliance with the requisition of the governor of the territory, for their services as a "posse comitatus" in aid of the civil authorities, to preserve the public peace, and in the due execution of the laws.

Special instructions for his guidance will be given to Colonel Brooks.

II. The quartermaster, subsistence and ordnance departments at the post will furnish the necessary transportation and supplies for the proper execution of this order. Forage and subsistence for 14 days will be required.





III. There being no medical officer at this post assignable for service with the detachment of dragoons under orders for New Mexico, the senior medical officer present will employ a suitable person to accompany this command in that capacity.

By order of General Harney:

A. PLEASONTON, Capt. 2d Dragoons, Act. Asst. Adjt.-Gen.

---

Headquarters Troops serving in Kansas,  
Fort Leavenworth, September 28, 1857.

Colonel: By special orders No. 78, from these headquarters, a copy of which is inclosed, you are directed to repair without delay, in command of light company A, and companies E and H, Second artillery, to Shawnee Mission, commonly called Gum Springs, in Johnson county, in this territory, to aid the civil authorities with your force, as a "posse comitatus," at the approaching election, to take place on the first Monday in October next, in preserving the peace and in the due execution of the laws.

You are further instructed by the general commanding, to report your force upon your arrival at the Shawnee Mission to the United States marshal or sheriff, as a "posse comitatus" for the purpose above indicated; and you will remain at that position until after the election, when you will return with your command to this post, unless the civil authorities shall deem it proper and necessary still longer to detain you.

You will proceed direct to Shawnee Mission, without passing through Kansas or any other town en route.

Copies of a proclamation by the governor of this territory will be furnished to you, which will be distributed to the officers of your command; and you will also present a copy to each of the judges of election and the sheriff or marshal at Shawnee Mission.

I am, colonel, very respectfully, your obedient servant,

A. PLEASONTON,  
Capt. 2d Dragoons, Act. Asst. Adjt.-Gen.

Brevet Lieut.-Col. Horace Brooks, Capt. 2d Artillery, commanding troops, etc., Fort Leavenworth, K. T.

Headquarters Troops serving in Kansas,  
Fort Leavenworth, October 5, 1857.

Official: A. PLEASONTON, Capt. 2d Dragoons, Act. Asst. Adjt.-Gen.

---

Leavenworth, K. T., October 3, 1857.

Sir: Under the authority vested in me by the President of the United States, you are requested to place the troops at the following points in this county, to act as a "posse comitatus" in aid of the civil authorities in the due execution of the laws, for the protection of the polls at the ensuing election, and for the preservation of the public peace:

1st. Two companies of First cavalry at the city of Leavenworth.

2d. Two companies of Sixth infantry at Kickapoo.

3d. One company of Second artillery at Easton.

I desire these companies to remain at the points indicated until the election



is over, and that the officer in command at the city of Leavenworth report to me there, and the other officers apply to me for instructions before leaving.

So soon as the election is over, I desire the troops to return to this post.

Respectfully yours,

R. J. WALKER, Governor of Kansas Territory.

Brevet Brig.-General William S. Harney, Commanding Troops serving in Kansas.

Headquarters Troops serving in Kansas,

Fort Leavenworth, October 5, 1857.

Official: A. PLEASANTON, Capt. 2d Dragoons, Act. Asst. Adjt.-Gen.

Headquarters Troops serving in Kansas,

Fort Leavenworth, October 3, 1857.

Governor: I have the honor to acknowledge the receipt of your communication of this date, making requisition upon me for troops to be stationed at different points in this county during the ensuing election, on the 5th inst., as a "posse comitatus" to aid the civil authorities in the due execution of the laws, for the protection of the polls, and for the preservation of the public peace.

I have accordingly issued the necessary orders in fulfillment of your requisition, and I have given the officers commanding such instructions as will insure a compliance with your desires.

I am, governor, very respectfully, your obedient servant,

WILLIAM S. HARNEY,

Col. 2d Dragoons, Brig.-Gen. Commanding.

His excellency R. J. Walker, Governor Kansas Territory, Fort Leavenworth, K. T.

Headquarters Troops serving in Kansas,

Fort Leavenworth, October 5, 1857.

Official: A. PLEASANTON, Capt. 2d Dragoons, Act. Asst. Adjt.-Gen.

SPECIAL ORDERS NO. 85.

Headquarters Troops serving in Kansas,

Fort Leavenworth, October 3, 1857.

I. Upon the requisition of his excellency the governor of this territory, the following-named troops will proceed to the respective places in this county designated in this order, by the time of the opening of the polls at the ensuing election, on the 5th instant, to act as a "posse comitatus," in aid of the civil authorities in the due execution of the laws and for the preservation of the public peace:

1st. Two companies (D and H) of the First cavalry (dismounted) under the command of Capt. Edward W. B. Newby, First cavalry, to the city of Leavenworth.

2d. Two companies (A and H) of the Sixth infantry, under the command of Capt. Thomas Hendrickson, Sixth infantry, to Kickapoo.

3d. One company (M) of the Second artillery, under the command of Brevet Maj. H. J. Hunt, Second artillery, to Easton.

Special instructions for their guidance will be given the commanding officers in each case.

II. The quartermaster, subsistence and ordnance departments at this post



will furnish the necessary transportation and supplies for the proper execution of this order. Subsistence for three days will be required.

By order of General Harney:

A. PLEASONTON, Capt. 2d Dragoons, Act. Asst. Adjt.-Gen.

---

Headquarters Troops serving in Kansas,  
Fort Leavenworth, October 3, 1857.

Major: You are instructed by special orders No. 85, of this date, from these headquarters, to proceed with your company to the town of Easton, some 11 miles from this, on the road to Fort Riley, to be in time for the opening of the polls at the ensuing election in that place, on the 5th instant.

You are further instructed by the general commanding, to report your force, upon your arrival at Easton, to the proper civil authorities, to act as a "posse comitatus" in execution of such orders as may be deemed proper to give you in that capacity.

Before leaving this post you will report to his excellency, the governor, for certain instructions he is desirous of giving to you concerning the above civil duties. After the election is over, you will return with your command to this post, unless detained by the proper civil authorities for a longer period.

I am, major, very respectfully, your obedient servant,

A. PLEASONTON,

Capt. 2d Dragoons, Act. Asst. Adjt.-Gen.

Brevet Maj. Henry J. Hunt, Capt. 2d Artillery, Commanding Co. M, Fort Leavenworth, K. T.

Headquarters Troops serving in Kansas,  
Fort Leavenworth, K. T.

Official: A. PLEASONTON, Capt. 2d Dragoons, Act. Asst. Adjt.-Gen.

---

Headquarters Troops serving in Kansas,  
Fort Leavenworth, October 3, 1857.

Captain: By special order No. 85, from these headquarters, of this date, you are instructed to proceed, in command of companies A and H, Sixth infantry, to the town of Kickapoo, to be in time for the opening of the polls at the ensuing election in that place, on the 5th instant.

You are further instructed by the general commanding, to report your force, upon your arrival at Kickapoo, to the proper civil authorities, to act as a "posse comitatus" in the execution of such orders as may be deemed proper to give you in that capacity.

Before leaving this post, you will report to his excellency the governor, for certain instructions he is desirous of giving to you concerning the above civil duties. After the election is over, you will return with your command to this post, unless detained by the proper civil authorities for a longer period.

I am, captain, very respectfully, your obedient servant,

A. PLEASONTON, Capt. 2d Dragoons, Act. Asst. Adjt.-Gen.

Capt. Thomas Hendrickson, 6th Infantry, Fort Leavenworth, K. T.

Headquarters Troops serving in Kansas,  
Fort Leavenworth, October 5, 1857.

Official: A. PLEASONTON, Capt. 2d Dragoons, Act. Asst. Adjt.-Gen.



Headquarters Troops serving in Kansas,  
Fort Leavenworth, October 3, 1857.

Captain: By special orders No. 85, from these headquarters, of this date, you are instructed to proceed, in command of companies D and H, First cavalry, to the city of Leavenworth, to be in time for the opening of the polls at the ensuing election in that place, on the 5th instant.

You are further instructed by the general commanding, to report your force, upon your arrival at the city of Leavenworth, to his excellency the governor, as a "posse comitatus," to execute such orders as he may deem proper to give you in that capacity. After the election is over, you will return with your command to this post, unless detained by the proper civil authorities for a longer period.

I am, captain, very respectfully, your obedient servant,

A. PLEASONTON,

Capt. 2d Dragoons, Act. Asst. Adjt.-Gen.

Capt. E. W. B. Newby, 1st Cavalry, Fort Leavenworth, K. T.

Headquarters Troops serving in Kansas,  
Fort Leavenworth, October 5, 1857.

Official: A. PLEASONTON, Capt. 2d Dragoons, Act. Asst. Adjt.-Gen.

Headquarters Troops serving in Kansas,  
Fort Leavenworth, October 11, 1857.

Sir: I have the honor to report for the information of the department, that the general election in this territory, which took place on the 5th and 6th instants, has passed off very quietly, no disturbance or tumult having occurred at any of the polls which have been heard from to mar the peace of the territory.

The troops have returned from the different election precincts, with the exception of Sherman's battery of artillery and one company of foot artillery, and these companies have been retained in the vicinity of Lawrence, at the request of his excellency, the governor of the territory.

In view of these facts, I addressed a communication to his excellency the governor, desiring to be informed as to the length of time the present force under my command would, in his opinion, be required; to which he replied that it would be unsafe to diminish the force now here before spring. I inclose copies of both these communications.

The important bearing of the governor's answer upon the interest of the military service of this command is so great that I deem it most essential to inform the department of it at the earliest moment. I have therefore instructed Captain Pleasonton, acting assistant adjutant-general on my staff, to deliver this dispatch, that his thorough knowledge of the service, as connected with the troops serving in Kansas, may be at the disposal of the department, and that my views, of which he is fully possessed, may be the more distinctly and clearly submitted.

Should it be deemed advisable to retain the troops now here until spring, cannot urge too strongly the necessity of sending immediately an ample supply of lumber to this post from St. Louis, for the purpose of building temporary shelter for the additional 19 companies that are at present here in camp for the want of quarters.

The increasing demand for the services of our troops on this frontier requires the adoption of every measure which will retain the men in the service when the season of their labors approaches; and I am confident that a timely provision of





shelter, with a due regard to the comfort of my command this winter, will render it effective for any emergency that may arise in the spring.

I am, sir, very respectfully, your obedient servant,

WILLIAM S. HARNEY,

Colonel 2d Dragoons, Brevet Brig.-Gen. Commanding.

Hon. John B. Floyd, Secretary of War.

Headquarters Troops serving in Kansas,  
Fort Leavenworth, October 9, 1857.

Governor: The war department having assembled a large number of troops at this place under my command, with instructions to fill your requisitions at any time for their services as a "posse comitatus," it is necessary I should know the probable length of time the presence of this force will be required, that arrangements may be made for their accommodation.

The limited allowance of quarters at this post, and the approach of winter, urge upon me to request of you such information relating to this subject as will enable me to suggest advisedly to the department the proper measures to secure the comfort and efficiency of the troops of this command.

I am, governor, very respectfully, your obedient servant,

WILLIAM S. HARNEY,

Colonel 2d Dragoons, Brevet Brig.-Gen. Commanding.

His excellency R. J. Walker, Governor of Kansas Territory, Fort Leavenworth, K. T.

Headquarters Troops serving in Kansas,  
Fort Leavenworth, October 10, 1857.

Official: A. PLEASANTON, Captain 2d Dragoons, Act. Asst. Adjt.-Gen.

Fort Leavenworth, Kansas Territory, October 10, 1857.

Sir: In reply to your communication of this date, requesting my views as to the disposition of the large force now here or daily expected, I have the honor to make the following suggestions:

So far as we have heard, the late election in Kansas has led to no violence or tumult. For this result the country is mainly indebted to the just policy adopted here, to the moral influence of the presence of the troops at various points, and to the good judgment evinced by the officers in command.

The prospect of the permanent pacification of Kansas has been greatly improved by the events to which I have referred. There are, however, important questions still pending here, connected with the action of the constitutional convention and territorial legislature of Kansas, which would render it unsafe, before next spring, to diminish the military force now here. I would therefore suggest that this force be retained here for the present, and that it be stationed partly at Fort Riley, and the remainder at Fort Leavenworth, or some point in the immediate vicinage.

If no untoward circumstances should occur this fall or winter in Kansas, it is my belief that thereafter no military force will be required in connection with the administration of affairs in this territory.

I am, general, most respectfully, your obedient servant,

R. J. WALKER, Governor of Kansas Territory.

Brevet Brig.-Gen. W. S. Harney, Commanding Troops in Kansas, etc.

Headquarters Troops serving in Kansas,  
Fort Leavenworth, K. T., October, 1857.

Official: A. PLEASANTON, Captain 2d Dragoons, Act. Asst. Adjt.-Gen.



## ACTING GOVERNOR STANTON'S PROCLAMATION.

## CENSUS AND APPORTIONMENT FOR THE LECOMPTON CONSTITUTIONAL CONVENTION.

May 20, 1857.

Whereas, The following returns of the census taken under the act of the legislative assembly, entitled "An act to provide for the taking of a census, and election of delegates to convention," passed the 19th February, 1857, have been made to me, to wit :

Dist.	Counties.	No. legal voters.	Whole pop.
1	Doniphan	1,086	4,120
2	{ Brown	206	No return.
	{ Nemaha	140	512
3	Atchison	804	2,807
4	Leavenworth	1,837	5,529
5	Jefferson	555	No return.
6	Calhoun	291	885
7	Marshall	206	415
8	{ Riley	353	No return.
	{ Pottawatomie	205	641
9	Johnson	496	890
10	Douglas	1,318	3,727
11	{ Shawnee	283	.....
	{ Richardson	.....	.....
	{ Davis	.....	.....
12	Lykins	413	1,352
13	.....	No return.	.....
14	.....	No return.	.....
15	.....	No return.	.....
16	Linn	413	1,821
17	.....	No return.	.....
18	Bourbon, McGee, Dorn, and Allen	645	2,622
19	.....	No return.	.....
Total		9,251	.....

Now, therefore, I, Frederick P. Stanton, secretary and acting governor, do hereby proclaim, that according to the provisions of said act, and the census returns made in pursuance thereof, and upon a proper apportionment among the legal voters of the several districts aforesaid, they are respectively entitled to elect to the convention provided for in said law the number of delegates severally herein assigned to them; that is to say, to the

1st district, Doniphan county	7 delegates.
2d district, Brown and Nemaha	2 "
3d district, Atchison	5 "
4th district, Leavenworth	12 "
5th district, Jefferson	4 "
6th district, Calhoun	2 "
7th district, Marshall	1 "
8th district, Riley and Pottawatomie	4 "
9th district, Johnson	3 "
10th district, Douglas	8 "
11th district, Shawnee, Richardson, and Davis	2 "
12th district, Lykins	3 "
16th district, Linn	3 "
18th district, Bourbon, McGee, Dorn, and Allen	4 "

The proper officers will hold the election for delegates to said convention on the third Monday of June next, as directed by the law aforesaid, and in accordance with the appointment herein made and declared.

[Herald of Freedom, May 30, 1857.]



## ELECTION PROTEST.

The following protest was circulated in Lawrence, signed and forwarded to the governor and secretary :

To his excellency R. J. Walker, Governor, and the Hon. Fred. P. Stanton, Secretary of the Territory of Kansas: The undersigned, citizens of the sixth council and tenth representative districts in the said territory of Kansas, beg leave respectfully to represent, that at the election held on the 5th inst. for delegate to Congress, members of the legislative assembly and other public offices, gross frauds were committed in the returns for Oxford precinct, by which a large number of votes, to wit, about 1,626, were returned purported to be polled at that precinct, where, your memorialists have good cause to believe, and do believe, there were not to exceed 100 legal voters. They have information in which they place full confidence that on the 5th day of October there were only about 91 votes polled; that on the day following, when it is purported some 1,538 votes were polled, there were no considerable number of persons in attendance or around the polls through the day; indeed, they have information that not to exceed from 20 to 30 persons were around the polls of the said Oxford precinct at any time during the said 6th of October.

They would further state, that they have satisfactory evidence that the population of Johnson county is too sparse to contain a population so great as is represented to be polled at that precinct. They are assured, too, that a vast majority of the names attached to the returns are not known in Johnson county. To this they would add the fact, that the said Oxford precinct is situated on the borders of the territory, within a few rods of the territorial line, and that the town of Little Santa Fe, in Missouri, is contiguous to said precinct, and that if any such number of votes were polled, your memorialists believe they were polled by non-residents of the territory. They also are confident that such a large number of votes could not have been polled at one precinct, and by any one set of officers, within the time limited by law.

We would also state that Johnson county, and Oxford precinct in particular, is within the limits of an Indian territory, which is specially reserved by the organic act of the territory of Kansas; that such territory was unopened for legal settlement on the 5th and 6th days of October last, and remains the same at this time, and that no legal settlements can be made within said reservation now, nor could not on the day nor at any time prior to such election.

Your memorialists, legal voters of said representative and council districts, would respectfully protest against the vote of said Oxford precinct being counted in the returns for the eighth council and tenth representative district, all for the delegate to Congress, for the reasons of fraud and illegality set forth in the above, and for other reasons which may appear. To ask his excellency the governor, and his honor the secretary, to take such action as their judgment may suggest, to inquire into the truth of our said allegations, and to do such other things in the premises as will secure us against fraud, and give to the actual bona fide residents of the territory and districts a voice in directing their own affairs. All of which is respectfully submitted.

G. W. SMITH.	SAMUEL WALKER.
GEO. FORD.	S. C. TOLLS.
ALBERT NEWMAN.	T. SAMPSON.
HENRY BROWN.	W. H. DUNCAN.
C. HORNSBY.	H. W. BAKER.
JOHN M. COE.	P. W. WOODWARD.



H. C. HEMMENWAY.	GAIUS JENKINS.
S. W. ELDRIDGE.	CLARK STEARNS.
E. A. EDWARDS.	J. H. TANEY.
M. SOLEMON.	R. M. WILKINSON.
GEO. W. HUNT.	E. D. LADD.
L. L. CURTIS.	GEO. C. CHANDLER.
AUGUSTUS WATTLES.	W. R. JUDSON.
ERASTUS HEATH.	JAS. F. LEGATE.
J. F. GRISWOLD.	JAS. CHRISTIAN.

Territory of Kansas, Douglas county, ss.

I, T. W. Brown, a notary public, duly commissioned and sworn, do certify that the above persons, whose names are in their own proper hand, are personally known to me to be the persons they represent themselves to be; that they are legal voters of the eighth council and tenth representative district, as they therein set forth; that they are persons of known integrity, and that each of them, save C. Hornsby, did declare on his solemn oath that the facts and things therein set forth they believe to be just and true; and I further believe that all the facts therein set forth are strictly true.

Witness my hand and official seal, at Lawrence, in the territory of Kansas, this 14th day of October, A. D. 1857.

[Seal]

G. W. BROWN, Notary Public.

[“Herald of Freedom,” October 17, 1857.]

#### ELECTION PROTEST.

To his excellency R. J. Walker, Governor, and Hon. Fred. P. Stanton, Secretary, of the Territory of Kansas: The undersigned, citizens of the fourteenth and sixteenth representative districts, in the territory of Kansas, respectfully represent that information has been received at the office of the secretary of the territory, that returns have been received at the office of what purports to be poll-books of elections held at divers precincts in the county of McGee, Kansas Territory, on the 5th day of October, inst., for the election of a delegate to Congress and several of the territorial legislators, and, as the said county of McGee is an Indian territory, not open to settlement, and only occupied at this time, as your memorialists verily believe, by Indians and a few traders and missionaries, and cannot contain 50 adult white male persons, citizens of the United States, within the limits of said McGee county, therefore they have good reason to believe, and do believe, that the returns from said county are fraudulent, gotten up by designing persons outside of the said county of McGee, and returned to Lecompton with the view of defrauding the duly-elected candidates out of their certificates of election, and to enforce upon the people of that representative district representatives who were not elected according to law and to vary the result in the election of a delegate to Congress.

Your memorialists would further state, that all that portion of territory embraced within the limits of McGee county, is the property of the Cherokee Indians, to which the Indian title has not been extinguished by treaty, and which, by the 12th section of the organic act, organizing Kansas Territory, is especially “excepted out of the boundaries, and constitute no part of the territory of Kansas;” that such tribe never signified “their assent to the President of the United States to be included within the said territory of Kansas,” as your memorialists are credibly informed, and that elections held within the boundaries of such territory have no more validity, or binding effect upon the people of





Kansas than if such elections were held within the limits of Missouri or Arkansas; that there can be no legal voters resident therein, because such territory is not even a portion of the territory of Kansas; and that any votes purporting to be polled there are in violation of law, a gross outrage upon the rights of the electors in other parts of the representative district; and a fraud upon the bona fide citizens of the territory at large.

Your memorialists, legal voters in said representative districts, for the reasons given above, and for many others which they might urge, do earnestly, but respectfully, protest against the returns, or any portion of the same, from the said county of McGee, being counted in taking official action in the granting of the certificates of election for delegate to Congress, representatives to the territorial legislature, or for any other purpose whatever.

All of which is respectfully submitted.

R. GILPATRICK.  
A. R. MORTON.  
O. E. LEARNARD.  
WM. B. PARSONS.  
GEO. M. NYE.

Territory of Kansas, Douglas County, ss.

I, G. W. Brown, a notary public, in and for said county, duly commissioned and sworn, do certify that the names attached to the above instrument were signed in my presence; that they made solemn oath that the facts and things therein set forth are just and true, as they verily believe; and I do certify that I believe them to be persons of integrity, and the persons they represent themselves as being.

Witness my hand and official seal, at Lawrence, in the territory of Kansas, this 20th day of October, A. D. 1857.

[Seal.]

G. W. BROWN, Notary Public.

[“Herald of Freedom,” October 24, 1857.]

ACTING GOVERNOR STANTON'S PROCLAMATION CONVENING THE LEGISLATURE  
IN EXTRA SESSION.

PROCLAMATION.

To the Members of the Legislative Assembly of the Territory of Kansas:

An extraordinary occasion having occurred in the affairs of the territory, within the meaning of the thirtieth section of the organic act, which authorizes the legislature to be called together upon such occasions;

I, Fred. P. Stanton, secretary and acting governor, do hereby summon the members of the council and house of representatives of the said territory to assemble in their respective houses, at Lecompton, on Monday next, the 7th inst., then and there to consider matters of great moment pertaining to the public welfare.

Given under the seal of the territory, at Lecompton, this, the 1st day of December, A. D. 1857.

FRED. P. STANTON.

[Herald of Freedom, Dec. 7, 1857, p. 3.]

FROM THE SHERIFF OF BOURBON COUNTY.

Fort Scott, K. T., December 13, 1857.

To his excellency, F. P. Stanton, Acting Governor of Kansas Territory:

Sir: As sheriff of Bourbon county, I feel it my duty to report to you, that in consequence of an organized and armed resistance to the civil authorities by a body of armed men in this county, aided and assisted by men equally lawless,



I am unable to serve processes, make arrests, or otherwise perform my official duties, and I have the honor to ask that you have a body of United States troops sent to this point to aid me in enforcing the laws and to give quiet to the disturbed state of things in this region. Herewith I send my affidavit and the concurrent statement of Deputy Marshal Little.

I have the honor to be your obedient servant,

JOHN S. CUMMINS, Sheriff of Bourbon County, K. T.

[Leavenworth Herald, December 19, 1857.]

---

#### GOVERNOR STANTON'S VETO MESSAGE.

Message from the Acting Governor, Fredrick P. Stanton, by his private secretary, Mr. Walsh, returning House Bill No. 1, entitled "An act to organize and regulate the militia of the territory," with his objections.

To the House of Representatives of the Territory of Kansas:

Gentlemen — Herewith I return the bill entitled "An act to organize and regulate the militia of the territory of Kansas," which was presented yesterday for my approval, but from which I am compelled to withhold my sanction. No necessity seems to me to demand a reorganization of the militia at the present time, and such a measure is not, in my judgment, legitimately connected with the general purpose for which the legislative assembly is now convened. Moreover, I am deeply impressed with the importance of avoiding everything which, at this critical juncture of affairs, might serve to irritate the minds of the people and arouse apprehension, such as might naturally be engendered by any military movement whatever. Looking to the provisions of the bill itself, I dissent from that part of it which provides for the election of the general officers by the two houses of the legislative assembly.

If any change should be made from the present mode of appointment, I am of the opinion that the officers in question should be elected by the people, or by those who are liable to be called into service under the law. But the most fatal objection to the proposed law, and that which is entirely conclusive to my mind, is to be found in the seventh section, which authorizes a majority of the military board to call out the militia in any emergency. By the organic act, the governor of the territory is made commander-in-chief of the militia, and is charged with the duty of seeing the laws faithfully executed. The proposed law would virtually depose him from his position, and would place him in the power of a board composed of the general officers of the militia, including himself, it is true; but in which he might, at any time, be overruled by the majority. In my judgment, such a law would be in direct conflict with the organic act, and would, therefore, be null and void. If, however, it might be considered legally valid, it would be hostile to the acknowledged principles of civil liberty, which require the subordination of the military to the civil power. To confer upon a majority of the general officers of the militia the power to judge of the occasion when the military force of the territory should be called into action, would be to establish a military despotism of the most dangerous and pernicious character. With these objections, I return the bill in question to the house in which it originated.

Lecompton, December 15, 1857.

FRED. P. STANTON.

[H. J., Ext. S., 1857, p. 57.]



## VETO MESSAGE.

To the House of Representatives of the Territory of Kansas:

Gentlemen: Having considered the bill originating in the house, entitled "An act to repeal an act entitled 'An act to punish rebellion,'" I am compelled to return it with my objections.

The law proposed to be repealed, if fairly administered, is calculated to preserve the peace of the territory, and, in the present condition of public affairs, I think it would be unwise and dangerous to interfere with its just operation.

I can conceive of no existing state of things justifying the repeal of a law designed to insure the peace and quiet of the community.

The legislative assembly had provided for an election, by which I most earnestly hope all existing differences among the people will be satisfactorily disposed of.

There is no occasion, so far as I know, to leave the people exposed to all the disturbances which might possibly occur in the absence of a law designed only to restrain violence and put down resistance to the lawful government of the territory.

FRED. P. STANTON.

[Council Journal, December 17, 1857, p. 71.]

## MESSAGE OF THE PRESIDENT.

Communicated to the senate, in compliance with the following resolution, introduced by Senator Trumbull, December 18, 1857:

Resolved, That the President be requested to communicate to the senate all correspondence between himself or any of the departments and any governor or other officer or person in the employment of the government in Kansas Territory, not heretofore communicated, together with all orders and instructions which have been issued to the governor of the said territory, or any other officer or person in said territory, in relation to Kansas affairs.

To the Senate of the United States: In answer to resolutions of the senate of the 16th and 18th instants, requesting correspondence and documents relative to the territory of Kansas, I transmit a report from the secretary of state, and the papers by which it was accompanied.

JAMES BUCHANAN.

Washington, December 22, 1857.

Department of State, Washington, December 22, 1857.

The secretary of state, to whom was referred the resolutions of the senate of the 16th and 18th instants, requesting the President to communicate to that body "all correspondence between the executive department and the present governor of Kansas, together with such orders and instructions as have been issued to said governor in relation to the affairs of said territory, together with the constitution and schedule referred to in the annual message," and "all correspondence between himself or any of the departments, and any governor or other officer or person in the employment of the government in Kansas Territory, not heretofore communicated, together with all orders and instructions which have been issued to the governor of said territory, or any other officer or person in said territory, in relation to Kansas affairs," has the honor to lay before the President the papers mentioned in the subjoined list, which comprise all those on record or on file in this department called for by the resolutions, and to state that the constitution and schedule mentioned in that



of the 16th instant have not officially or otherwise been communicated to this department. Respectfully submitted. LEWIS CASS.

To the President of the United States.

---

LIST OF ACCOMPANYING PAPERS, CONTAINED IN SENATE EXECUTIVE DOCUMENT No. 8, THIRTY-FIFTH CONGRESS, FIRST SESSION.

- Mr. Cass to Mr. Walker, March 30, 1857.  
 Same to same, March 30, 1857.  
 Same to Mr. Stanton, March 31, 1857.  
 Mr. Stanton to Mr. Cass, (with an inclosure,) April 17, 1857.  
 Mr. Cass to Mr. Stanton, May 6, 1857.  
 Mr. Walker to Mr. Cass, (with an inclosure,) May 9, 1857.  
 Same to same, (with an inclosure,) June 2, 1857.  
 Same to same, (with inclosures,) July 15, 1857.  
 Same to same, July 20, 1857.  
 Same to same, July 25, 1857.  
 Mr. Cass to Mr. Walker, July 25, 1857.  
 Mr. Walker to Mr. Cass, (with inclosures,) July 27, 1857.  
 Mr. Cass to Mr. Walker, July 31, 1857.  
 Mr. Walker to Mr. Cass, (with inclosures,) August 3, 1857.  
 Same to same, August 18, 1857.  
 Same to same, August 19, 1857.  
 Mr. Cass to Mr. Walker, (with an accompaniment,) August 23, 1857.  
 Same to same, September 1, 1857.  
 Same to same, September 2, 1857.  
 Mr. Walker to Mr. Cass, (with inclosures,) September 26, 1857.  
 Same to same, (with inclosures,) October 10, 1857.  
 Same to same, October 10, 1857.  
 Mr. Cass to Mr. Walker, October 21, 1857.  
 Mr. Walker to Mr. Cass, (with inclosures,) November 3, 1857.  
 Mr. Stanton to Mr. Cass, November 9, 1857.  
 Mr. Stanton to the President, November 11, 1857.  
 Mr. Cass to Mr. Stanton, November 30, 1857.  
 Same to same, December 2, 1857.  
 Same to same, December 8, 1857.  
 Mr. Stanton to Mr. Cass, (with inclosures,) December 9, 1857.  
 Mr. Cass to Mr. Denver, December 11, 1857.  
 Mr. Walker to Mr. Cass, December 15, 1857.  
 Mr. Cass to Mr. Walker, December 18, 1857.

---

MR. CASS TO MR. WALKER.

Department of State, Washington, March 30, 1857.

Sir: The president having appointed you governor of the territory of Kansas, I herewith inclose your commission. You will be pleased to inform this department of the receipt of it, and, should it be accepted, of the name of the state or country in which you were born. I am, sir, etc.,

LEWIS CASS.

Robert J. Walker, Esq.





MR. CASS TO MR. WALKER.

Department of State, Washington, March 30, 1857.

Sir: The state of things in Kansas has caused the president great solicitude. He is very anxious for the permanent continuance of the public peace and for the restoration of public confidence, so that the people of that territory may enjoy tranquillity and the exercise of all the rights which justly belong to them. This effected, a career of prosperity would be opened, in consequence of the natural advantages of the country, probably not exceeded by any other region in our extensive territory. From causes not necessary to recapitulate, difficulties have existed there occasioning great uneasiness everywhere, and threatening the most disastrous consequences. It is believed that firmness and discretion in the administration of the territorial government will go far towards the permanent establishment of the peace which now prevails there, and it is hoped it will prevent its future disturbance.

In seeking to procure the services of a citizen qualified to undertake these responsible duties with a prospect of success, the president was gratified to learn, when application was made to you, that you were willing to accept the office of governor of Kansas, and to devote yourself to the execution of its important duties. In this feeling he is confident the country will participate, and will find in your distinguished public services, and in the high positions you have so ably filled, an assurance that the measures you adopt will be well calculated to assert the authority of the law.

The president was desirous that you should proceed immediately to Kansas and enter upon the executive duties. But as you had informed him in your letter of acceptance that circumstances beyond your control would render it impossible for you to leave here before the second Monday of May next, he assents to this delay, and trusts that immediately thereafter you will proceed to your government and enter upon your duties. And the president more readily assents to this arrangement because, in the meantime, F. P. Stanton, Esq., will accept the office of secretary of the territory, and, in your absence, will be vested with all the powers of the executive. He will immediately set out for Kansas. In accepting the office, he has been animated by the same motives which have prompted you to make a sacrifice to the public interests, and he will command the confidence of the country by his well-known services and experience and by his qualifications for the position.

Commissions for yourself and for him accompany these instructions.

There are two great objects connected with the present excitement growing out of the affairs of Kansas, and the attainment of which will bring it to a speedy termination. These were clearly and succinctly stated in the president's recent inaugural address, and I embody the paragraphs in this communication, asking your special attention to them. It is declared in that instrument to be "the imperative and indispensable duty of the government of the United States to secure to every resident inhabitant the free and independent expression of his opinion by his vote. This sacred right of each individual must be preserved"; and, "that being accomplished, nothing can be fairer than to leave the people of a territory free from all foreign interference to decide their own destiny for themselves, subject only to the constitution of the United States."

Upon these great rights of individual action and of public decision rests the foundation of American institutions, and if they are faithfully secured to the people of Kansas, the political condition of the country will soon become



quiet and satisfactory. The institutions of Kansas should be established by the votes of the people of Kansas, unawed and uninterrupted by force or fraud. And foreign voters must be excluded, come whence they may, and every attempt to overawe or interrupt the free exercise of the right of voting must be promptly repelled and punished. Freedom and safety for the legal voter, and exclusion and punishment for the illegal one—these should be great principles of your administration.

The regular legislature of the territory having authorized the assembling of a convention to frame a constitution to be accepted or rejected by Congress under the provisions of the federal constitution, the people of Kansas have the right to be protected in the peaceful election of delegates for such a purpose, under such authority, and the convention itself has a right to similar protection in the opportunity for tranquil and undisturbed deliberation. When such a constitution shall be submitted to the people of the territory, they must be protected in the exercise of their right of voting for or against that instrument, and the fair expression of the popular will must not be interrupted by fraud or violence.

The President concurs in the hope expressed by you, that the intervention of the military force will not be necessary; but should this just expectation be disappointed, he refers you for the measures you must adopt and for the necessary authority in that emergency to the instructions heretofore given by the president of the United States and by this department to your predecessors.

Copies of these instructions accompany this communication, and also copies of the instructions heretofore issued by the war department, and of those issued by the present secretary of war, respecting the employment of the troops of the United States, upon your requisition.

You will communicate freely with this department from time to time, so that the president may be kept informed as to the true state of things in Kansas. I am, etc.,

LEWIS CASS.

Robert J. Walker, Esq.

---

MR. CASS TO MR. STANTON.

Department of State, Washington, March 31, 1857.

Sir: You have been appointed secretary of the territory of Kansas. Your commission has been sent to the secretary of the treasury, from whom you will receive it, when you shall have given security, as required by law, for the disbursement of the public money which may be intrusted to you; and you will herewith receive a letter addressed to Mr. Woodson, the present secretary, and who will be superseded upon your taking the oath of office, informing him of this arrangement.

As you are aware, no dissatisfaction with the course of Mr. Woodson has led to the change; on the contrary, the president approves his course. But it is due to the new governor, Mr. Walker, that he should have for his secretary a gentleman known to him, and in whom he has confidence, and your selection is desired by him.

A copy of the instructions to Mr. Walker, as governor, you will receive with this letter. The duties of that office, when he is not in the territory, will devolve upon you, and the president desires that you proceed thither without unnecessary delay, and take upon yourself the execution of those duties. These instructions make known the views of the president. They provide also



for placing such force at your disposition as the security of the public peace and the enforcement of the law may render necessary. I am, sir, &c.,

LEWIS CASS.

F. P. Stanton, Esq., Washington.

---

MR. STANTON TO MR. CASS.

Executive Office, Lecompton, K. T., April 17, 1857.

Sir: I have the honor to inform you that I arrived here night before last, and yesterday morning presented your letter of the 31st ultimo to Mr. Wodson, late secretary, and immediately entered upon the duties of my office. My first official act was to issue a brief address to the people of Kansas, of which I inclose a printed copy.

It affords me great satisfaction to advise you that, so far as I have yet learned, the people of the territory are entirely peaceable and quiet, and exhibit every disposition to remain so.

In order to encourage this good disposition, I suggest for your consideration the propriety of directing the United States attorney for this territory to discontinue all the prosecutions which have been commenced against persons of any party, for offenses arising out of the late political disturbances. If the President should agree with me as to the propriety of this policy, and should make a brief proclamation stating the reasons for this act of executive clemency, I think it would have a happy effect in promoting future harmony.

I have the honor to be, very respectfully, your obedient servant,

FRED. P. STANTON.

Hon. Lewis Cass, Secretary of State, Washington, D. C.

---

ADDRESS OF ACTING GOVERNOR STANTON.

To the People of the Territory of Kansas: Fellow Citizens—The Hon. Robert J. Walker, present governor of the territory, accepted his appointment from the President upon condition that he should not be required to leave Washington until the 11th of May next. Circumstances beyond his control rendered it impossible for him to start before that day. He may, therefore, be expected here about the middle of next month, and will then assume the executive authority of the territory.

During the absence of the governor, by the organic law of the territory, the whole duties and responsibilities of the executive are devolved upon me, by virtue of my commission as secretary. In assuming to exercise the functions of this high office, at this critical juncture in the affairs of the territory, it is not inappropriate that I should briefly indicate the course which I shall feel it my duty to pursue.

The government of the United States recognizes the authority of the territorial government in all matters which are within the scope of the organic act of Congress and consistent with the federal constitution. I hold that there can be no other rightful authority exercised within the limits of Kansas, and I shall proceed to the faithful and impartial execution of the laws of the territory, by the use of all the means placed in my power and which may be necessary to that end.

The government especially recognizes the territorial act which provides for assembling a convention to form a constitution, with a view to making application to Congress for admission as a state into the union. That act is



regarded as presenting the only test of the qualification of voters for delegates to the convention, and all preceding repugnant restrictions are thereby repealed. In this light, the act must be allowed to have provided for a full and fair expression of the will of the people through the delegates who may be chosen to represent them in the constitutional convention. I do not doubt, however, that, in order to avoid all pretext for resistance to the peaceful operation of this law, the convention itself will, in some form, provide for submitting the great distracting question regarding their social institution, which has so long agitated the people of Kansas, to a fair vote of all the actual bona fide residents of the territory, with every possible security against fraud and violence. If the constitution be thus framed, and the question of difference thus submitted to the decision of the people, I believe that Kansas will be admitted by Congress without delay as one of the sovereign states of the American union, and the territorial authorities will be immediately withdrawn.

I need scarcely say that all the power of the territorial executive will be exerted, with entire impartiality, to prevent fraud, to suppress violence, and to secure to every citizen a fair opportunity for the safe and peaceful exercise of his elective privilege. It will be no less the duty than the earnest desire and great pleasure of the governor or acting governor of the territory to carry out, in good faith, the policy avowed by the President of the United States in his recent inaugural address, in which he declares it to be "the imperative and indispensable duty of the government of the United States to secure to every resident inhabitant the free and independent expression of his opinion by his vote. This sacred right of each individual must be preserved," and, "that being accomplished, nothing can be fairer than to leave the people of a territory free from all foreign interference to decide their own destiny for themselves, subject only to the constitution of the United States."

Nothing is wanting but to secure the confidence of the people of all parties in the sincerity of the declared intention of the territorial executive to carry out these principles in good faith, in order to induce the cooperation of all good men in the pending measures for adopting a state constitution. The principles themselves cannot fail to be acceptable to the sober judgment of the people; and I ardently hope, for the sake of the paramount interests involved, that the necessary confidence will not be withheld.

The deplorable events which have marked the history of the territory up to this have doubtless left their natural results of enmity and heart-burnings among the people, also upon the criminal records of the territorial courts. Indictments have been found against many of those who acted in a military capacity under the authority of the territorial government for acts and excesses alleged to be wholly illegal and unjustifiable. On the other hand, similar prosecutions have been instituted against those who resisted the territorial authorities and who undertook to retaliate for the alleged wrongs committed against them. It is my deliberate opinion that, in order to promote peace and harmony and to secure the future repose of the people, there ought to be a general amnesty in reference to all those acts, on both sides, which grew out of the political contest, and which were not corruptly and feloniously committed for personal gain and to gratify individual malignity. This measure, if adopted at all, ought to be adopted generously, without any consideration of the origin of the difficulty, and without question as to the party which may be responsible for the wrong. It will involve no concession or advantage to either party, but will be merely an act of clemency, designed





to obliterate, as far as possible, from the hearts of the people all memory of the disastrous and lamentable contest, which has heretofore desolated this unhappy territory. If it shall have that effect, though it may pardon some instances of gross wrong and outrage, it will tend to calm the excited passions of the people and to prevent similar occurrences in the future. It will be a measure of conciliation and peace, and will leave the people free from apprehension in the future, so that they can securely devote themselves to those important labors which are destined to make this territory a great, prosperous and happy state.

FRED. P. STANTON, Secretary and Acting Governor.

Lecompton, April 17, 1857.

MR. CASS TO MR. STANTON.

Department of State, Washington, May 6, 1857.

Sir: Your letter of the 17th ult., with its accompaniment, has been received. The intelligence which it conveys in regard to the disposition of the people of Kansas is gratifying. Your suggestion in regard to the expediency of discontinuing certain prosecutions in the territory is under consideration, and it is probable that the views of the President in regard to the measure will be made known to Governor Walker prior to his departure for the territory. I am, sir, &c.,

LEWIS CASS.

Frederick P. Stanton, Esq., Acting Governor of Kansas, Lecompton.

MR. WALKER TO MR. CASS.

Washington City, May 9, 1857.

Sir: Having accepted the office of governor of the territory of Kansas, I herewith inclose you a copy of my official oath, taken before Chief Justice Taney.

The commission was duly received, and, in compliance with your request, I state that I was born in the village and county of Northumberland, in the state of Pennsylvania.

Very respectfully, your obedient servant,

R. J. WALKER.

Hon. Lewis Cass, Secretary of State.

Before me, Roger B. Taney, chief justice of the supreme court of the United States, personally appeared Robert J. Walker, governor of the territory of Kansas, who being by me first duly sworn, deposeth and saith, that he will faithfully discharge the duties of said office and support the constitution of the United States.

R. J. WALKER.

Sworn and subscribed this 9th May, 1857, Washington.—R. B. TANEY.

True copy from the original.—R. J. WALKER.

MR. WALKER TO MR. CASS.

Lecompton, Kansas Territory, June 2, 1857.

Sir: Herewith you will find inclosed several copies, in pamphlet form, of my inaugural address, delivered at Lecompton, the seat of government of this territory, on the 27th day of May last. These are the first corrected copies I have been enabled to obtain, and you will oblige me by placing them on the files of the department in place of the proof-sheets heretofore transmitted. There has been no newspaper issued here for several weeks, and the difficulty and delay attending the procuring of pamphlet copies of my address, correctly printed, have been very great.



My inaugural was extremely well received by the people here, and, so far as I can learn, it seems quite probable that it will be approved by a very large majority of the people of this territory. On one point the sentiment of the people is almost unanimous: that the constitution must be submitted for ratification or rejection to a vote of the people who shall be bona fide residents of the territory next fall.

The difficulties in this territory are not yet adjusted, and, without the submission of the constitution to the people, a peaceful settlement is entirely impracticable. There is still a considerable party in Kansas who will resist the adoption of the constitution, however framed, upon the ground so long occupied by them, that the territorial legislature which called this convention was elected by voters from another state (as they allege), and not by the people of Kansas.

Resistance to the territorial laws is still threatened. Yesterday resolutions were adopted by a public meeting at Lawrence to resist the assessment for a territorial tax. An actual collision, it is feared, will follow. As I was very respectfully received in Lawrence, it is my intention immediately to repair there, with a view to endeavor by argument and persuasion, without the employment of any military force, unless found indispensably necessary, to induce there quiet submission to the laws. Similar difficulties are threatened at other points in the territory, where I shall repair in person at the earliest practicable period. The most alarming movement, however, proceeds from the assembling on the 9th of June of the so-called Topeka legislature, with a view to the enactment of an entire code of laws. Of course it will be my endeavor to prevent such a result, as it would lead to inevitable and disastrous collision, and, in fact, renew the civil war in Kansas. I shall resort to peaceful means in the first instance, but at the same time apprise all parties that any attempt to put such laws in force will be resisted by the government; and that, in the last resort, recourse will be had to the military force subject to my order.

Notwithstanding the menacing condition of affairs at this time, my hope is that no such laws will be passed, or if so, that no serious effort will be made to put them in execution.

This is a region of great beauty and fertility, but up to this period of time the weather has been extremely cold. Indeed, when I contrast the climate with that of St. Louis, through which I passed nearly two weeks since, the thermometer must range many degrees higher there than in this territory.

On the whole, although there is, as yet, great discontent in the territory, and serious threats of resisting the territorial laws, yet I think a soothing effect has already been produced upon the people by the positions assumed in my address, and I indulge strong hopes of a peaceful settlement of this question. You may rest satisfied, however, that unless the people had been assured that the constitution should be submitted, as far as our power extended, for ratification or rejection by all the actual bona fide resident settlers, a most disastrous civil war here would have been inevitable.

I shall endeavor to keep you advised, from time to time, of the progress of events in this territory.

Be pleased to present my most respectful acknowledgments to the President and all your colleagues in the cabinet, and receive for yourself assurances of my distinguished consideration.

R. J. WALKER.

Hon. Lewis Cass, Secretary of State.



## GOVERNOR WALKER'S INAUGURAL ADDRESS.

Lecompton, Kansas Territory, May 27, 1857.

Fellow Citizens of Kansas: At the earnest request of the President of the United States, I have accepted the position of governor of the territory of Kansas. The President, with the cordial concurrence of all his cabinet, expressed to me the conviction that the condition of Kansas was fraught with imminent peril to the union, and asked me to undertake the settlement of that momentous question which has introduced discord and civil war throughout your borders, and threatens to involve you and our country in the same common ruin. This was a duty thus presented, the performance of which I could not decline consistently with my view of the sacred obligations which every citizen owes to his country.

The mode of adjustment is provided in the act organizing your territory, namely, by the people of Kansas, who, by a majority of their own votes, must decide this question for themselves in forming their state constitution.

Under our practice, the preliminary act of framing a state constitution is uniformly performed through the instrumentality of a convention of delegates chosen by the people themselves. That convention is now about to be elected by you, under the call of the territorial legislature, created and still recognized by the authority of Congress, and clothed by it, in the comprehensive language of the organic law, with full power to make such an enactment. The territorial legislature, then, in assembling this convention, were fully sustained by the act of Congress, and the authority of the convention is distinctly recognized in my instructions from the President of the United States. Those who oppose this course cannot aver the alleged irregularity of the territorial legislature, whose laws in town and city elections, in corporate franchises, and on all other subjects but slavery, they acknowledge by their votes and acquiescence. If that legislature was invalid, then are we without law or order in Kansas—without town, city, or county organization—all legal and judicial transactions are void—all titles null, and anarchy reigns throughout our borders.

It is my duty, in seeing that all constitutional laws are fairly executed, to take care, as far as practicable, that this election of delegates to the convention shall be free from fraud and violence, and that they shall be protected in their deliberations.

The people of Kansas, then, are invited by the highest authority known to the constitution to participate freely and fairly in the election of delegates to frame a constitution and state government. The law has performed its entire appropriate function when it extends to the people the right of suffrage, but it cannot compel the performance of that duty. Throughout our whole union, however, and wherever free government prevails, those who abstain from the exercise of the right of suffrage authorize those who do vote to act for them in that contingency, and the absentees are as much bound under the law and constitution, where there is no fraud or violence, by the act of the majority of those who do vote, as if all had participated in the election. Otherwise, as voting must be voluntary, self-government would be impracticable, and monarchy or despotism would remain as the only alternative.

You should not console yourselves, my fellow citizens, with the reflection that you may, by a subsequent vote, defeat the ratification of the constitution. Although most anxious to secure to you the exercise of that great constitutional right, and believing that the convention is the servant, and not the master of the people, yet I have no power to dictate the proceedings of that



body. I cannot doubt, however, the course they will adopt on this subject. But why incur the hazard of the preliminary formation of a constitution by a minority, as alleged by you, when a majority, by their own votes, could control the forming of that instrument?

But it is said that the convention is not legally called, and that the election will not be freely and fairly conducted. The territorial legislature is the power ordained for this purpose by the Congress of the United States; and in opposing it you resist the authority of the federal government. That legislature was called into being by the Congress of 1854, and is recognized in the very latest congressional legislation. It is recognized by the present chief magistrate of the union, just chosen by the American people, and many of its acts are now in operation here by universal assent. As the governor of the territory of Kansas, I must support the laws and the constitution; and I have no other alternative under my oath, but to see that all constitutional laws are fully and fairly executed.

I see in this act calling the convention no improper or unconstitutional restrictions upon the right of suffrage. I see in it no test oath or other similar provisions objected to in relation to previous laws, but clearly repealed as repugnant to the provisions of this act, so far as regards the election of delegates to this convention. It is said that a fair and full vote will not be taken. Who can safely predict such a result? Nor is it just for a majority, as they allege, to throw the power into the hands of a minority, from a mere apprehension—(I trust entirely unfounded)—that they will not be permitted to exercise the right of suffrage. If, by fraud or violence, a majority should not be permitted to vote, there is a remedy, it is hoped, in the wisdom and justice of the convention itself, acting under the obligations of an oath, and a proper responsibility to the tribunal of public opinion. There is a remedy, also, if such facts can be demonstrated, in the refusal of Congress to admit a state into the union under a constitution imposed by a minority upon a majority by fraud or violence. Indeed, I cannot doubt that the convention, after having framed a state constitution, will submit it for ratification or rejection, by a majority of the then actual bona fide resident settlers of Kansas.

With these views, well known to the President and cabinet, and approved by them, I accepted the appointment of governor of Kansas. My instructions from the President, through the secretary of state, under date of the 30th of March last, sustain "the regular legislature of the territory" in "assembling a convention to form a constitution," and they express the opinion of the President, that "when such a constitution shall be submitted to the people of the territory, they must be protected in the exercise of their right of voting for or against that instrument; and the fair expression of the popular will must not be interrupted by fraud or violence."

I repeat, then, as my clear conviction, that unless the convention submit the constitution to the vote of all the actual resident settlers of Kansas, and the election be fairly and justly conducted, the constitution will be, and ought to be, rejected by Congress.

There are other important reasons why you should participate in the election of delegates to this convention. Kansas is to become a new state, created out of the public domain, and will designate her boundaries in the fundamental law. To most of the land within her limits the Indian title, unfortunately, is not yet extinguished, and this land is exempt from settlement, to the grievous injury of the people of the state. Having passed many year,





of my life in a new state, and represented it for a long period in the senate of the United States, I know the serious incumbrance arising from large bodies of lands within a state to which the Indian title is not extinguished. Upon this subject the convention may act by such just and constitutional provisions as will accelerate the extinguishment of Indian title.

There is, furthermore, the question of railroad grants made by Congress to all the new states but one, (where the routes could not be agreed upon,) and, within a few months past, to the flourishing territory of Minnesota. This munificent grant of 4,500,000 acres was made to Minnesota even in advance of her becoming a state, and will enable our sister state of the north west, under the auspices of her present distinguished executive, speedily to unite her railroad system with ours.

Kansas is undoubtedly entitled to grants similar to those just made to Minnesota, and upon this question the convention may take important action.

These, recollect, are grants by Congress, not to companies, but to states. Now, if Kansas, like the state of Illinois, in granting hereafter these lands to companies to build these roads, should reserve, at least the 7 per cent. of their gross annual receipts, it is quite certain that, so soon as these roads are constructed, such will be the large payments into the treasury of our state, that there will be no necessity to impose in Kansas any state tax whatever, especially if the constitution should contain wise provisions against the creation of state debts.

The grant to the state of Illinois for the Illinois Central railroad, passed under the wise and patriotic auspices of her distinguished senator, was made before the pernicious system lately exposed in Washington had invaded the halls of Congress, and therefore that state, unlike most others which obtained recent grants, was enabled to make this great reservation for the benefit of the state. This constitutes of itself a conclusive reason why these railroad grants should be reserved in the ordinance accompanying our state constitution, so that our state might have the whole benefit of the grant, instead of large portions being given to agents appointed to obtain these grants by companies substantially in many cases for their own benefit, although in the name of the state.

There is another reason why these railroad grants should thus be reserved in our ordinance.

It is to secure these lands to the state before large bodies of them are engrossed by speculators, especially along the contemplated lines of railroads. In no case should these reservations interfere with the preemption rights reserved to settlers, or with school sections.

These grants to states, as is proved by the official documents, have greatly augmented the proceeds of the sales of the public lands, increasing their value, accelerating their sale and settlement, and bringing enhanced prices to the government, whilst greatly benefiting the lands of the settler, by furnishing him new markets and diminished cost of transportation. On this subject, Mr. Buchanan, always the friend of the new states, in his recent inaugural, uses the following language:

"No nation in the tide of time has ever been blessed with so rich and noble an inheritance as we enjoy in the public lands. In administering this important trust, whilst it may be wise to grant portions of them for the improvement of the remainder, yet we should never forget that it is our cardinal policy to reserve the lands as much as may be for actual settlers, and this at moderate prices. We shall thus not only best promote the prosperity of the new states



by furnishing them a hardy and independent race of honest and industrious citizens, but shall secure homes for our children and our children's children, as well as those exiled from foreign shores who may seek in this country to improve their condition, and enjoy the blessings of civil and religious liberty."

Our American railroads, now exceeding 24,000 miles completed, have greatly advanced the power, prosperity and progress of the country, whilst linking it together in bonds of ever-increasing commerce and intercourse, and tending, by these results, to soften or extinguish sectional passion and prejudice, and thus perpetuate the union of the states. This system, it is clearly the interest of the whole country, shall progress until the states west of the Mississippi shall be intersected, like those east of that river, by a network of railroads, until the whole, at various points, shall reach the shores of the Pacific. The policy of such grants by Congress is now clearly established; and whatever doubts may have prevailed in the minds of a few persons as to the constitutionality of such grants, when based only upon the transfer of a portion of the public domain, in the language of the inaugural of the president, "for the improvement of the remainder," yet when they are made, as now proposed, in the ordinance accompanying our constitution, in consideration of our relinquishing the right to tax the public lands, such grants become, in fact, sales for ample equivalents, and their constitutionality is placed beyond all doubt or controversy. For this reason, also, and in order that these grants may be made for ample equivalents, and upon grounds of clear constitutional authority, it is most wise that they should be included in our ordinance, and take effect by compact when the state is admitted into the union. If my will could have prevailed as regards the public lands, as indicated in my public career, and especially in the bill presented by me, as chairman of the committee of public lands, to the senate of the United States, which passed that body, but failed in the house, I would authorize no sales of these lands except for settlement and cultivation, reserving not merely a pre-emption, but a homestead of a quarter-section of land in favor of every actual settler, whether coming from other states or emigrating from Europe. Great and populous states would thus rapidly be added to the confederacy, until we should soon have one unbroken line of states, from the Atlantic to the Pacific, giving immense additional power and security to the union, and facilitating intercourse between all its parts. This would be alike beneficial to the old and to the new states. To the workingmen of the old states, as well as of the new, it would be of incalculable advantage, not merely by affording them a home in the West, but by maintaining the wages of labor, by enabling the working classes to emigrate and become cultivators of the soil, when the rewards of daily toil should sink below a fair remuneration. Every new state, besides, adds to the customers of the old states, consuming their manufactures, employing their merchants, giving business to their vessels and canals, their railroads and cities, and a powerful impulse to their industry and prosperity. Indeed, it is the growth of the mighty West which has added, more than all other causes combined, to the power and prosperity of the whole country, whilst at the same time, through the channels of business and commerce, it has been building up immense cities in the eastern Atlantic and middle states, and replenishing the federal treasury with large payments from the settlers upon the public lands, rendered of real value only by their labor; and thus, from increased exports, bringing back augmented imports, and soon largely increasing the revenue of the government from that source also.

Without asking anything new from Congress, if Kansas can receive, on



coming into the union, all the usual grants, and use them judiciously, she can not only speedily cover herself with a network of railroads, but, by devoting all the rest to purposes of education, she would soon have a complete system of common schools, with normal schools, free academies, and a great university, in all of which tuition should be free to all our people. In that university the mechanic arts, with model workshops, and all the sciences, should be taught, and especially agriculture in connection with a model farm.

Although you ask nothing more in your ordinance than has been already granted to the other new states, yet, in view of the sacrifice of life and property incurred by the people of Kansas in establishing here the great principles of state and popular sovereignty, and thus perpetuating the union, Congress doubtless will regard with indulgent favor the new state of Kansas, and will welcome her into the union with joyful congratulations and a most liberal policy as to the public domain.

The full benefit of that great measure, the graduation and the reduction of the price of the public lands in favor only of settlers and cultivators, so often urged by me in the senate and in the treasury department, and finally adopted by Congress, should also be secured in our ordinance. Having witnessed in new states the deep injury inflicted upon them by large bodies of their most fertile land being monopolized by speculators, I suggest, in accordance with the public policy ever advocated by me, that our entire land tax, under the constitution, for the next 20 years should be confined exclusively to unoccupied land—whether owned by residents or non-residents—as one of the best means of guarding against a monopoly of our choice lands by speculators. I desire, in fact, to see our convention exercise the whole constitutional power of a state to guard our rights and interests, and especially to protect the settlers and cultivators against the monopoly of our public domain by speculators.

As regards the school lands of the new states, the following views will be found in my reports of the 8th of December, 1847, and 9th of December, 1848, as secretary of the treasury of the United States:

“The recommendation contained in my last report for the establishment of ports of entry in Oregon, and the extension there of our revenue laws, is again respectfully presented to the consideration of Congress, together with donations of farms to settlers and emigrants, and the grant of a school section in the center of every quarter of a township, which would bring the schoolhouse within a point not exceeding a mile and a half in distance from the most remote inhabitant of each quarter township.

And again:

“My last report recommended the grant of one section of land for schools more inhabitant of such quarter township.

\* Congress, to some extent, adopted this recommendation, by granting two school sections in each township, instead of one, for education in Oregon; but it is respectfully suggested that, even thus extended, the grant is still inadequate in amount, whilst the location is inconvenient, and too remote for a school which all can attend. This subject is again presented to the attention of Congress, with the recommendation that it shall be extended to California and New Mexico, and also to all the other new states and territories containing the public domain.”

Acting upon the first of these recommendations, but not carrying them fully into effect, Congress doubled the school-section grants—an advance upon the former system. But, in my judgment, the benefits intended will never be fully realized until four school sections, instead of two, are granted in every



township, locating the school section in the center of every quarter township; thus, by only doubling the school sections, causing every section of the public domain in the new states to adjoin a school section, which would add immensely to the value of the public lands, whilst, at the same time, affording an adequate fund not only for the establishment of common schools in every township, but of high schools, normal schools, and free academies, which, together with the 5 per-cent. fund and university grant before referred to, would place Kansas, in a few years, in point of science and education, in the front rank of the states of the American union and of the world. This is a subject always regarded by me with intense interest, inasmuch as my highest hope of the perpetuity of our union and of the continued success of self-government is based upon the progressive education and enlightenment of the people, enabling them fully to comprehend their own true interests, the incalculable advantages of our union, the exemption from the power of demagogues, the control of sectional passions and prejudice, the progress of the arts and sciences, and the accumulation of knowledge, which is every day more and more becoming real power, and which will advance so much the great interests of our whole country.

These noble grants for schools and education in some of the new states have not produced all the advantages designed, for want of adequate checks and guards against improvident legislation; but I trust that the convention, by a distinct constitutional provision, will surround these lands with such guarantees, legislative, executive, judicial, and popular, as to require the combined action of the whole, under the authority of the legislature, in the administration of a fund so sacred.

It will be observed that these school sections and the 5 per-cent. fund, or their equivalent, have always been made good to the new states by Congress, whether the lands were sold in trust for Indians, or otherwise.

Upon looking at the location of Kansas, equidistant from north to south, and from the Atlantic to the Pacific, I find that, within reasonable boundaries, she would be the central state of the American union. On the north lies the Nebraska territory, soon to become a state; on the south the great and fertile southwestern Indian territory, soon, I hope, to become a state also. To the boundary of Kansas run nearly all the railroads of Missouri, whilst westward, northward, and southward, these routes, continued through Kansas, would connect her directly with Puget's sound, the mouth of the Oregon river, and San Francisco. The southern boundary of Kansas is but 500 miles from the Gulf of Mexico, and the same railroad through the great southwestern Indian territory and Texas would connect her with New Orleans, with Galveston, with all the roads of Arkansas, and through Texas to San Francisco and other points on the Pacific. Northward and eastward our lines would connect with the roads of Iowa, Illinois, Wisconsin, Nebraska, Minnesota, and the lakes of the north.

It is the people of Kansas who, in forming their state constitution, are to declare the terms on which they propose to enter the union. Congress cannot compel the people of a territory to enter the union as a state, or change, without their consent, the constitution framed by the people. Congress, it is true, may, for constitutional reasons, refuse admission, but the state alone, in forming her constitution, can prescribe the terms on which she will enter the union. This power of the people of a territory in forming a state constitution is one of vital importance, especially in the states carved out of the public domain. Nearly all the lands of Kansas are public lands, and most





of them are occupied by Indian tribes. These lands are the property of the federal government, but their right is exclusively that of a proprietor, carrying with it no political power.

Although the states cannot tax the constitutional functions of the federal government, they may assess its real estate within the limits of the state. Thus, although a state cannot tax the federal mint or custom-houses, yet it may tax the ground on which they stand, unless exempted by state authority. Such is the well-settled doctrine of the supreme court of the United States. In 1828, Judge McLean, of the supreme court of the United States, made the following decision:

"It is true the United States held the proprietary right under the act of cession, and also the right of sovereignty until the state government was established; but the mere proprietary right, if it exist, gives no right of sovereignty. The United States may own land within a state, but political jurisdiction does not follow this ownership. Where jurisdiction is necessary, as for forts and arsenals, a cession of it is obtained from the state. Even the lands of the United States within the state are exempted from taxation by compact."

By the recent decision of the supreme court of the United States, so justly favorable to the rights and interest of the new states, especially those formed out of the territory acquired, like Kansas, since the adoption of the constitution, it is clear that the ownership of the public lands of such territory is viewed by the court exclusively as a proprietary right, carrying with it no political power or right of eminent domain, and affecting in no way the exercise of any of the sovereign attributes of state authority. When Kansas becomes a state, with all the attributes of state sovereignty coextensive with her limits, among these must be the taxing power, which is an inherent element of state authority. I do not dispute the title of the government to the public lands of Kansas, but I do say that this right is that of an owner only; and that when Kansas becomes a state the public lands are subject to taxation by state authority, like those of any individual proprietor, unless that power is relinquished by the state in the ordinance, assuming the form of a compact, by which the state is admitted into the union.

This relinquishment of the taxing power as to the public lands, so important to the general government, and which has heretofore been exacted by Congress on their own terms from all the new states, is deeply injurious to the state, depriving her almost entirely of the principal recourse of a new state by taxation to support her government. Now that this question is conclusively settled by the supreme court of the United States, as a consequence of their recent decision, it is proper for the state, in making this relinquishment of the right to tax the public lands, to annex the conditions on which she consents to such exemption. This should be done in the constitution, upon terms just to Kansas and to the federal government.

Should Kansas relinquish the right of taxing the public lands for equivalents, she should, in my judgment, although sustained by irresistible conclusions from the decision of the supreme court of the United States and sound constitutional views of state rights, place the question in its strongest form, by asking nothing more than has been granted to the other new states, including the grants for education, railroads, &c. She will thus give the highest proof that she is not governed by sordid views, and that she means to exact nothing from Congress that is unjust or unusual.

I cannot too earnestly impress upon you the necessity of removing the



slavery agitation from the halls of Congress and presidential conflicts. It is conceded that Congress has no power to interfere with slavery in the states where it exists; and if it can now be established, as is clearly the doctrine of the constitution, that Congress has no authority to interfere with the people of a territory on this subject in forming a state constitution, the question must be removed from congressional and presidential elections.

This is the principle affirmed by Congress in the act organizing this territory, ratified by the people of the United States in the recent election, and maintained by the late decision of the supreme court of the United States. If this principle can be carried into successful operation in Kansas—that her people shall determine what shall be her social institutions—the slavery question must be withdrawn from the halls of Congress and from our presidential conflicts, and the safety of the union be placed beyond all peril; whereas, if the principle should be defeated here, the slavery agitation must be renewed in all elections throughout the country with increasing bitterness, until it shall eventually overthrow the government.

It is this agitation which, to European powers, presents the only hope of subverting our free institutions, and, as a consequence, destroying the principle of self-government throughout the world. It is this hope that has already inflicted deep injury upon our country, exciting monarchical or despotic interference with our domestic as well as foreign affairs, and inducing their interposition, not only in our elections, but in diplomatic intercourse, to arrest our progress, to limit our influence and power, depriving us of great advantages in peaceful territorial expansion, as well as in trade with the nations of the world.

Indeed, when I reflect upon the hostile position of the European press during the recent election, and their exulting predictions of the dissolution of our union as a consequence of the triumph of a sectional candidate, I cannot doubt that the peaceful and permanent establishment of these principles, now being subjected to their final test in Kansas, will terminate European opposition to all those measures which must so much increase our commerce, furnish new markets for our products and fabrics, and, by conservative peaceful progress, carry our flag and the empire of our constitution into new and adjacent regions indispensable as a part of the union to our welfare and security, adding coffee, sugar and other articles to our staple exports, whilst greatly reducing their price to the consumer.

Nor is it only in our foreign intercourse that peace will be preserved and our prosperity advanced by the accepted fact of the permanence of our government, based upon the peaceful settlement of this question in Kansas, but at home the same sentiment will awaken renewed confidence in the stability of our institutions, give a new impulse to all our industry, and carry us onward in a career of progress and prosperity exceeding even our most sanguine expectations; a new movement of European capital will flow in upon us for permanent investment, and a new exodus of the European masses, aided by the preemption principle, carry westward the advancing column of American states in one unbroken phalanx to the Pacific.

And let me ask you, what possible good has been accomplished by agitating in Congress and in presidential conflicts the slavery question? Has it emancipated a single slave, or improved their condition? Has it made a single state free, where slavery otherwise would have existed? Has it accelerated the disappearance of slavery from the more northern of the slaveholding states, or accomplished any practical good whatever? No, my fellow



citizens, nothing but unmitigated evil has already ensued, with disasters still more fearful impending for the future, as a consequence of this agitation.

There is a law more powerful than the legislation of man, more potent than passion or prejudice, that must ultimately determine the location of slavery in this country; it is the isothermal line, it is the law of the thermometer, of latitude or altitude, regulating climate, labor, and productions, and, as a consequence, profit and loss. Thus, even upon the mountain heights of the tropics slavery can no more exist than in northern latitudes, because it is unprofitable, being unsuited to the constitution of that sable race transplanted here from the equatorial heats of Africa. Why is it that in the union slavery recedes from the north and progresses south? It is this same great climatic law now operating for or against slavery in Kansas. If, on the elevated plains of Kansas, stretching to the base of our American Alps—the Rocky mountains—and including their eastern crest, crowned with perpetual snow, from which sweep over her open prairies those chilling blasts, reducing the average range of the thermometer here to a temperature nearly as low as that of New England, should render slavery unprofitable here, because unsuited to the tropical constitution of the negro race, the law above referred to must ultimately determine that question here, and can no more be controlled by the legislation of man than any other moral or physical law of the Almighty. Especially must this law operate with irresistible force in this country, where the number of slaves is limited, and cannot be increased by importation—where many millions of acres of sugar and cotton lands are still uncultivated, and from the ever augmenting demand, exceeding the supply, the price of those great staples has nearly doubled, demanding vastly more slave labor for their production.

If, from the operation of these causes, slavery should not exist here, I trust it by no means follows that Kansas should become a state controlled by the treason and fanaticism of abolition. She has, in any event, certain constitutional duties to perform to her sister states, and especially to her immediate neighbor, the slave-holding state of Missouri. Through that great state, by rivers and railroads, must now, to a great extent, our trade and intercourse, our imports and exports. Our entire eastern front is upon her border; from Missouri come a great number of her citizens; even the farms of the two states are cut by the line of state boundary—part in Kansas, part in Missouri; her citizens meet us in daily intercourse; and that Kansas should become hostile to Missouri, an asylum for her fugitive slaves, or a propagandist of abolition treason, would be alike inexpedient and unjust, and fatal to the continuance of the American union. In any event, then, I trust that the constitution of Kansas will contain such clauses as will forever secure to the state of Missouri the faithful performance of all constitutional guaranties, not only by federal, but by state authority, and the supremacy within our limits of the authority of the supreme court of the United States on all constitutional questions be firmly established.

Upon the south, Kansas is bounded by the great southwestern Indian territory. This is one of the most salubrious and fertile portions of this continent. It is a great cotton-growing region, admirably adapted by soil and climate for the products of the South, embracing the valleys of the Arkansas and Red rivers, adjoining Texas on the south and west, and Arkansas on the east, and it ought speedily to become a state of the American union. The Indian treaties will constitute no obstacle any more than precisely similar treaties did in Kansas; for their lands, valueless to them, now for sale, but which, sold with



their consent and for their benefit, like the Indian land of Kansas, would make them a most wealthy and prosperous people, and their consent on these terms would be most cheerfully given. This territory contains double the area of the state of Indiana, and if necessary an adequate portion of the western and more elevated part could be set apart exclusively for these tribes, and the eastern and larger portion be formed into a state, and its lands sold for the benefit of these tribes, (like the Indian lands of Kansas,) thus greatly promoting all their interests. To the eastern boundary of this region on the state of Arkansas run the railroads of that state; to her southern limits come the great railroads from Louisiana and Texas, from New Orleans and Galveston, which will ultimately be joined by railroads from Kansas, leading through this Indian territory, connecting Kansas with New Orleans, the Gulf of Mexico, and with the Southern Pacific railroad, leading through Texas to San Francisco.

It is essential to the true interests, not only of Kansas, but of Louisiana, Texas and Arkansas, Iowa and Missouri, and the whole region west of the Mississippi, that this coterminous southwestern Indian territory should speedily become a state, not only to supply us with cotton, and receive our products in return, but as occupying the area over which that portion of our railroads should run which connect us with New Orleans and Galveston, and by the southern route with the Pacific. From her central position, through or connected with Kansas, must run the central, northern and southern routes to the Pacific, and with the latter, as well as with the Gulf, the connection can only be secured by this southwestern territory becoming a state; and to this Kansas should direct her earnest attention as essential to her prosperity.

Our country and the world are regarding with profound interest the struggle now impending in Kansas. Whether we are competent to self-government; whether we can decide this controversy peacefully for ourselves by our own votes, without fraud or violence; whether the great principles of self-government and state sovereignty can be carried here into successful operation, are the questions now to be determined; and upon the plains of Kansas may now be fought the last great and decisive battle, involving the fate of the union, of state sovereignty, of self-government, and the liberties of the world. If, my fellow citizens, you could, even for a brief period, soften or extinguish sectional passions or prejudice, and lift yourselves to the full realization of the momentous issues intrusted to your decision, you would feel that no greater responsibility was ever devolved on any people. It is not merely shall slavery exist in or disappear from Kansas, but shall the great principles of self-government and state sovereignty be maintained or subverted. State sovereignty is mainly a practical principle in so far as it is illustrated by the great sovereign right of the majority of the people in forming a state government to adopt their own social institutions, and this principle is disregarded whenever such decision is subverted by Congress, or overthrown by external intrusion, or by domestic fraud or violence. All those who oppose this principle are the enemies of states' rights, of self-government, of the constitution and the union. Do you love slavery so much, or hate it so intensely, that you would endeavor to establish or exclude it by fraud or violence, against the will of the majority of the people? What is Kansas, with or without slavery, if she should destroy the rights and union of the states? Where would be her schools, her free academies, her colleges and university, her towns and cities, her railroads, farms, and villages, without the union, and the principles of self-government? Where would be her peace and prosperity, and what the





value of her lands and property? Who can decide this question for Kansas, if not the people themselves? and if they cannot, nothing but the sword can become the arbiter.

On the one hand, if you can and will decide peacefully this question yourselves, I see for Kansas an immediate career of power, progress and prosperity, unsurpassed in the history of the world. I see the peaceful establishment of our state constitution, its ratification by the people, and our immediate admission into the union; the rapid extinguishment of Indian title, and the occupancy of those lands by settlers and cultivators; the diffusion of universal education; pre-emptions for the actual settlers; the state rapidly intersected by a network of railroads: our churches, schools, colleges, and university, carrying westward the progress of law, religion, liberty, and civilization; our towns, cities, and villages, prosperous and progressing; our farms teeming with abundant products, and greatly appreciated in value; and peace, happiness and prosperity smiling throughout our borders. With proper clauses in our constitution, and the peaceful arbitrament of this question, Kansas may become the model state of the American union. She may bring down upon us from north to south, from east to west, the praises and blessings of every patriotic American, and of every friend of self-government throughout the world; she may record her name on the proudest page of the history of our country and of the world, and, as the youngest and last born child of the American union, all will hail and regard her with respect and affection.

On the other hand, if you cannot thus peacefully decide this question, fraud, violence and injustice will reign supreme throughout our borders, and we will have achieved the undying infamy of having destroyed the liberty of our country and of the world. We will become a by-word of reproach and obloquy, and all history will record the fact that Kansas was the grave of the American union. Never was so momentous a question submitted to the decision of any people, and we cannot avoid the alternatives now placed before us of glory or of shame.

May that overruling Providence who brought our forefathers in safety to Jamestown and Plymouth; who watched over our colonial pupilage; who convened our ancestors in harmonious councils on the birthday of American independence; who gave us Washington and carried us successfully through the struggles and perils of the revolution; who assembled, in 1787, that noble band of patriots and statesmen from North and South who framed the federal constitution; who has augmented our numbers from 3 millions to 30 millions; has carried us from the eastern slope of the Alleghanies, through the great valleys of the Ohio, Mississippi, and Missouri, and now salutes our standard on the shores of the Pacific, rouse in our hearts a love of the whole union, and a patriotic devotion to the whole country; may it extinguish or control all sectional passions and prejudice, and enable us to conduct to a successful conclusion the great experiment of self-government now being made within our boundaries.

Is it not infinitely better that slavery should be abolished or established in Kansas, rather than that we should become slaves and not permitted to govern ourselves? Is the absence or existence of slavery in Kansas paramount to the great questions of state sovereignty, of self-government, and of the union? Is the sable African alone entitled to your sympathy and consideration, even if he were happier as a freeman than as a slave, either here, or in St. Domingo, or the British West Indies, or Spanish America, where the emancipated slave has receded to barbarism, and approaches the lowest



point in the descending scale of moral, physical and intellectual degradation? Have our white brethren of the great American and European race no claims upon our attention? Have they no rights or interests entitled to regard and protection? Shall the destiny of the African in Kansas exclude all considerations connected with our own happiness and prosperity? And is it for the handful of that race now in Kansas, or that may be hereafter introduced, that we should subvert the union and the great principles of self-government and state sovereignty, and imbrue our hands in the blood of our countrymen? Important as this African question may be in Kansas, and which it is your solemn right to determine, it sinks into insignificance compared with the perpetuity of the union and the final successful establishment of the principles of state sovereignty and free government. If patriotism, if devotion to the constitution and love of the union, should not induce the minority to yield to the majority on this question, let them reflect that in no event can the minority successfully determine this question permanently, and that in no contingency will Congress admit Kansas as a slave or free state, unless a majority of the people of Kansas shall first have fairly and freely decided this question for themselves by a direct vote on the adoption of the constitution, excluding all fraud or violence. The minority, in resisting the will of the majority, may involve Kansas again in civil war; they may bring upon her reproach and obloquy, and destroy her progress and prosperity; they may keep her for years out of the union, and, in the whirlwind of agitation, sweep away the government itself. But Kansas never can be brought into the union, with or without slavery, except by a previous solemn decision, fully, freely and fairly made, by a majority of her people, in voting for or against the adoption of her state constitution. Why, then, should this just, peaceful and constitutional mode of settlement meet with opposition from any quarter? Is Kansas willing to destroy her own hopes of prosperity merely that she may afford political capital to any party, and perpetuate the agitation of slavery throughout the union? Is she to become a mere theme for agitators in other states, the theater on which they shall perform the bloody drama of treason and disunion? Does she want to see the solemn acts of Congress, the decision of the people of the union in the recent election, the legislative, executive and judicial authorities of the country all overthrown, and revolution and civil war inaugurated throughout her limits? Does she want to be "bleeding Kansas" for the benefit of political agitators within or out of her limits, or does she prefer the peaceful and quiet arbitrament of this question for herself? What benefit will the great body of the people of Kansas derive from these agitations? They may, for a brief period, give consequence and power to political leaders and agitators; but it is at the expense of the happiness and welfare of the great body of the people of this territory.

Those who oppose slavery in Kansas do not base their opposition upon any philanthropic principles or any sympathy for the African race. For in their so-called constitution, framed at Topeka, they deem that entire race so inferior and degraded as to exclude them all forever from Kansas, whether they be bond or free, thus depriving them of all rights here, and denying even that they can be citizens of the United States; for, if they are citizens, they could not constitutionally be exiled or excluded from Kansas. Yet such a clause, inserted in the Topeka constitution, was submitted by that convention for the vote of the people, and ratified here by an overwhelming majority of the anti-slavery party. This party here, therefore, has, in the most posi-



tive manner, affirmed the constitutionality of that portion of the recent decision of the supreme court of the United States declaring that Africans are not citizens of the United States.

This is the more important, inasmuch as this Topeka constitution was ratified, with this clause inserted, by the entire republican party in Congress, thus distinctly affirming the recent decision of the supreme court of the union that Africans are not citizens of the United States; for, if citizens, they may be elected to all offices, state and national, including the presidency itself; they must be placed upon a basis of perfect equality with the whites, serve with them in the militia, on the bench, the legislature, the jury-box, vote in all elections, meet us in social intercourse, and intermarry freely with the whites. This doctrine of the perfect equality of the white with the black in all respects whatsoever, social and political, clearly follows from the position that Africans are citizens of the United States. Nor is the supreme court of the union less clearly vindicated by the position now assumed here by the published creed of this party, that the people of Kansas, in forming their state constitution, (and not Congress,) must decide this question of slavery for themselves. Having thus sustained the court on both the controverted points decided by that tribunal, it is hoped they will not approve the anarchical and revolutionary proceedings in other states, expunging the supreme court from our system by depriving it of the great power for which it was created, of expounding the constitution. If that be done, we can have, in fact, no unity of government or fundamental law, but just as many ever-varying constitutions as passion, prejudice and local interests may, from time to time, prescribe in the 31 states of the union.

I have endeavored heretofore faintly to foreshadow the wonderful prosperity which would follow at once in Kansas the peaceful and final settlement of this question. But if it should be in the power of agitators to prevent such a result, nothing but ruin will pervade our territory. Confidence will expire, and law and order will be subverted. Anarchy and civil war will be inaugurated among us. All property will greatly depreciate in value. Even the best farms will become almost worthless. Our towns and cities will sink into decay. Emigration into our territory will cease. A mournful train of returning settlers, with ruined hopes and blasted fortunes, will leave our borders. All who have purchased property at present prices will be sacrificed, and Kansas will be marked by universal ruin and desolation.

Nor will the mischief be arrested here. It will extend into every other state. Despots will exult over the failure here of the great principles of self-government and the approaching downfall of our confederacy. The pillars of the union will rock upon their base, and we may close the next presidential conflict amid the scattered fragments of the constitution of our once happy and united people. The banner of the stars and stripes, the emblem of our country's glory, will be rent by contending factions. We shall no longer have a country. The friends of human liberty in other realms will shrink despairing from the conflict. Despotism will resume its sway throughout the world, and man will have tried in vain the last experiment of self-government. The architects of our country's ruin, the assassins of her peace and prosperity, will share the same common ruin of all our race. They will meet, whilst living, the bitter curses of a ruined people, whilst history will record as their only epitaph: These were the destroyers of the American union, of the liberties of their country and of the world.



But I do not despair of the republic. My hope is in the patriotism and intelligence of the people; in their love of country, of liberty, and of the union. Especially is my confidence unbounded in the hardy pioneers and settlers of the West. It was such settlers of a new state devoted to the constitution and the union whom I long represented in the senate of the United States, and whose rights and interests it was my pride and pleasure there, as well as in the treasury department, to protect and advocate. It was men like these whose rifles drove back the invader from the plains of Orleans, and planted the stars and stripes upon the victorious fields of Mexico. These are the men whom gold cannot corrupt, nor foes intimidate. From their towns and villages, from their farms and cottages, spread over the beautiful prairies of Kansas, they will come forward now in defense of the constitution and the union. These are the glorious legacy they received from our fathers, and they will transmit to their children the priceless heritage. Before the peaceful power of their suffrage this dangerous sectional agitation will disappear, and peace and prosperity once more reign throughout our borders. In the hearts of this noble band of patriotic settlers the love of their country and of the union is inextinguishable. It leaves them not in death, but follows them into that higher realm, where, with Washington and Franklin and their noble compatriots, they look down with undying affection upon their country, and offer up their fervent prayers that the union and the constitution may be perpetual. For, recollect, my fellow citizens, that it is the constitution that makes the union; and unless that immortal instrument, bearing the name of the father of his country, shall be maintained entire in all its wise provisions and sacred guaranties, our free institutions must perish.

My reliance also is unshaken upon the same overruling Providence who has carried us triumphantly through so many perils and conflicts; who has lifted us to a height of power and prosperity unexampled in history, and, if we shall maintain the constitution and the union, points us to a future more glorious and sublime than mind can conceive or pen describe. The march of our country's destiny, like that of His first chosen people, is marked by the footprints of the steps of God. The constitution and the union are "the cloud by day and the pillar of fire by night," which will carry us safely, under His guidance, through the wilderness and bitter waters, into the promised and ever-extending fields of our country's glory. It is His hand which beckons us onward in the pathway of peaceful progress and expansion, of power and renown, until our continent, in the distant future, shall be covered by the folds of the American banner; and instructed by our example, all the nations of the world, through many trials and sacrifices, shall establish the great principles of our constitutional confederacy of free and sovereign states.

R. J. WALKER.

---

MR. WALKER TO MR. CASS.

Leavenworth, Kansas Territory, July 15, 1857.

Sir: I have been incessantly occupied since my letter to you of the 2d of June last, partly by my official business, and partly by traveling throughout the territory and addressing the people.

On the 6th of June last, by invitation of a number of the citizens of Topeka favorable to my views as set forth in my inaugural, I addressed them on the affairs of the territory. A very large crowd was assembled, and composed, as I subsequently ascertained, of a large majority of citizens favorable to the so-called Topeka state constitution. I have not with me here any printed





copy of my address, which was interrupted by many questions from my political opponents. This was a course not anticipated by me; but I endeavored to answer these questions in a satisfactory manner, and the result was favorable to the cause of law and order in the territory. The 9th of June being the day assigned for the meeting of the so-called Topeka state legislature at Topeka, I was induced by a most earnest request on the part of a large number of the most respectable citizens to remain there, with a view, as far as practicable, to prevent the serious consequences which might arise by conflicting legislation on the part of the so-called Topeka state legislature. I did remain, but was not present at any of their meetings. On the 9th of June their mass convention of the people was assembled at Topeka, for the purpose of instructing their state legislature in regard to the discharge of their duties. This was a most novel proceeding, but not more singular than many of the extraordinary events which have occurred in Kansas. This mass convention was somewhat divided in opinion as to the proper policy to be pursued by the Topeka legislature. From a very early hour in the morning of the 9th of June, down to about 8 o'clock at night, this mass convention was addressed in a most earnest manner by the orators of their party, in favor of a course to be pursued by their legislature, more or less violent. The main difference in opinion was this: whether the legislature should refrain from general legislation, and only pass such acts not conflicting with the territorial government as would enable them to ascertain the number of inhabitants of the territory, and induce them to petition Congress for the admission of Kansas as a state under the so-called Topeka constitution; or whether they should fully organize the state government and pass a complete code of laws on all subjects, which code, it is said, had been prepared by various committees, and was ready for legislative action; on the one side advocating what they professed to regard as nothing more than a petition to Congress to admit them as a state under the Topeka state constitution; and on the other side, in favor of what was regarded by me as open rebellion, were many violent men, headed by the principal delegates from the town of Lawrence, which is the great seat of all the agitation that has disturbed the peace of this territory.

Before the close of this debate I was strongly urged, even by a considerable number of this mass convention, to proceed to the court-house and address them on the subject. I did not conceive it, however, proper on my part to pursue this course, but I was much surprised when, after their own orators had concluded their several addresses, this mass convention proceeded to my lodgings in the town of Topeka, and, by repeated calls, insisted on an address from me. I finally complied with their request, and addressed them for more than an hour, endeavoring to impress them with the solemnity of the occasion, advising them of the ruinous consequences of their proceedings, urging them to abandon the whole Topeka movement as illegal and unjustifiable, and recommending them to seek redress for all the grievances of which they complained in the peaceful manner designated in my inaugural address. My audience was most attentive. I was interrupted by no questions, and by no marks either of dissent or applause. From the conduct of the crowd on this occasion I drew the most favorable conclusions, and was not entirely mistaken as to the results.

Although this mass convention did not adopt fully my advice to abandon the whole Topeka movement, yet they did vote down by a large majority the resolutions prepared by the more violent of their own party in favor of complete state organization and the adoption of a code of state laws, and con-



tented themselves with adopting resolutions in favor of preventing a lapse of their state government, and enabling them, through the instrumentality of a state census and various agents, to have a petition signed by the people of Kansas in favor of their admission as a state under their so-called Topeka state constitution. Their so-called legislature has, I understand, substantially pursued this last and more moderate course, although I have never been able to obtain a complete copy of their so-called laws.

The result of the whole discussion at Topeka was regarded by the friends of law and order as highly favorable to their cause, and as the commencement of a great movement essential to success, viz.: the separation of the free-state democrats from the republicans, who had to some extent heretofore cooperated under the name of the free-state party. It was, however, universally admitted that, but for the position assumed in my inaugural address, and emphatically repeated at Topeka, that the people of Kansas, so far as my power extended, should be permitted, by a full vote of the actual residents of Kansas, to decide upon the great question of the adoption or rejection of the state constitution to be prepared by the constitutional convention which should assemble at Lecompton in September next, that the more violent course would have prevailed, and the territory have been immediately involved in a general and sanguinary civil war, postponing, for the present at least, if not indefinitely, any pacific settlement of these momentous questions.

On the 10th of June, by invitation of the citizens, I addressed a very large audience at the Big Springs, in Kansas, urging substantially the same views contained in my inaugural and my several speeches at Topeka. Our friends considered that the result there was highly favorable to the cause of the constitution and of the union.

Early in July I proceeded to Paola, a town in Kansas, situate 50 miles south of Lecompton, where the land sales were then progressing. A very large crowd, not less than 1,000, assembled to hear my address, when the views heretofore expressed by me, substantially, were again repeated. I was answered by one of their favorite orators, of the name of Foster, who, among other things, accused the President of the United States of great inconsistency in opposing the Topeka movement, when it was well known that he had advocated the admission of Michigan as a state in 1836, under what he (Foster) claimed to be proceedings similar to those at Topeka. Most fortunately I had participated, as a senator of the United States, in the admission of Michigan, and was enabled to explain the matter satisfactorily to the people. I showed them that, in the case of Michigan, the territorial legislature were clothed by Congress with no authority to assemble a constitutional convention and adopt a state constitution; but that, under the comprehensive language of the Kansas and Nebraska bill, the territorial legislature was clothed with such authority by the laws of Congress, and that the authority of such a convention to submit the constitution to the vote of the people was as clear and certain as that of Congress itself, and that opposition to such a proceeding was equivalent to opposing the laws of Congress. I urged them, therefore, to abandon the Topeka movement as entirely illegal; that they were pursuing a course in opposition to the laws, which never could lead to any successful result, and urged them to unite in voting for or against the adoption of such a constitution as might be submitted for their consideration by the constitutional convention which would assemble in September next on the call of the territorial legislature. I endeavored to convince them that the so-called republican party of Kansas, and their associates in the















